

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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██████████████████
██████████████████

Reg. No.: 2014-15850
Issue No.: 3008
Case No.: ██████████
Hearing Date: January 8, 2013
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for September 2013 and October 2013?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP benefits.
2. On September 16, 2013, Claimant notified the Department that she had suffered a work-related injury and she would not be able to work per her doctor's orders.
3. On November 9, 2013, Claimant filed a request for hearing contending that she was due a supplement for FAP benefits for the months of September 2013 and October 2013.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, in her November 19, 2013, request for hearing, Claimant contended that she was eligible for an increase in FAP benefits for the months of September 2013 and October 2013 because the Department failed to timely and correctly recalculate her FAP benefits for those months after she reported that she would be off work because of a work-related injury. Although there was testimony at the hearing that Claimant was also disputing the closure of her FAP case in November 2013, because Claimant's request for hearing specifically concerned the FAP benefits for September 2013 and October 2013, this hearing decision will address only that issue.

Claimant's benefit summary inquiry for her FAP benefits showed that she received monthly FAP benefits of \$124 for August 2013 and September 2013 and \$119 for October 2013. The Department failed to present any FAP budgets showing what information it used to calculate the FAP benefits for the months at issue. Because Claimant's FAP benefits did not increase for September 2013 and October 2013 from the previous month (and in fact decreased for October 2013), it does not appear that the Department considered a decrease in income in calculating Claimant's FAP benefits for those months.

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (July 2013), p. 10. In this case, Claimant credibly testified that she reported to the Department on September 16, 2013, that she had injured herself at her job, that she was off work, and that she would not have any employment income while awaiting her worker's compensation claim. Because the first FAP allotment ten days after the reported change was in October 2013, the Department should have considered the decrease in employment income in the October 2013 FAP budget. Therefore, the Department acted in accordance with Department policy when it did not consider the reported change in the September 2013 FAP budget. However, because the Department did not contend that Claimant failed to timely provide any requested verifications, it should have recalculated Claimant's October 2013 FAP budget to consider the income change. Because the Department did not present any evidence that the October 2013 FAP budget was

recalculated, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy.


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated and issued September 2013 FAP benefits to Claimant but failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated and issued her October 2013 FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to calculation of Claimant's September 2013 FAP allotment and REVERSED IN PART with respect to calculation of her October 2013 FAP allotment.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's October 2013 FAP budget based on the reported change; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for October 2013.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 13, 2014

Date Mailed: January 13, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]