

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2014-20337
Issue No(s): 3008
Case No.: ██████████
Hearing Date: January 30, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits?

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. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 1, pp. 7-10)
3. On December 23, 2013, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2014, she was approved for FAP benefits in the amount of \$██████ for a group size of two. (Exhibit 1, pp.3-6)
4. On December 30, 2013, Claimant requested a hearing disputing the Department's calculation of her FAP benefits.

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.

In this case, in connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. Claimant indicated on her redetermination that that her two children were both full time students [REDACTED]. (Exhibit 1, p.8). Claimant provided verification of their enrollment with her redetermination. (Exhibit 1, pp. 11-12). Based on the information provided by Claimant on her redetermination, the Department determined that Claimant's [REDACTED] children were not eligible students for FAP purposes and on December 23, 2013, the Department sent Claimant a Notice of Case Action, informing her that effective January 1, 2014, her group size would be decreased to two and she was approved for FAP benefits of [REDACTED].

The Budget Summary from the Notice of Case Action was reviewed at the hearing. Claimant confirmed the amounts relied on by the Department and only disputed the removal of her [REDACTED] children from the FAP group because of their student status.

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (October 2013), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2013), pp.3-5.

At the hearing, Claimant testified that her [REDACTED] years old, respectively. Claimant confirmed that at the time of the redetermination, both of her children were enrolled in school full time. Claimant stated that her children do not participate in on the job training or in a work study program and that they are both not employed for 20 hours or more per week. Claimant's children are each not a single parent nor do they provide more than half of the physical care of a group member under age six. Claimant also stated that her daughter is not physically or mentally unfit for employment. BEM 245, pp.2-5. Claimant further testified that her son is physically or mentally unfit for employment, as he receives SSI and has been determined disabled by the Social Security Administration.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant's daughter does not meet any of the

criteria found in BEM 245; and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-4. Claimant's son, however, does meet the criteria for eligibility under BEM 245, and should have been included in the FAP group.

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 did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits effective January 1, 2014, and removed her [REDACTED] as a group member.

At the hearing, Claimant testified that her [REDACTED] had withdrawn her enrollment from [REDACTED] and was no longer a full time student. Claimant was informed that because this information was just provided to the Department, she would be required to submit verification of this information and that it could possibly impact her future FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

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 FAP budget for January 1, 2014, including her son as an eligible group member; and
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from January 1, 2014, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 3, 2014

Date Mailed: February 4, 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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]