

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-18819
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 February 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly calculate 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 on-going FAP recipient.
2. Claimant's FAP benefits of \$16 per month were previously based upon a monthly rent expense of \$25 and monthly unearned income of \$1,156.
3. Because of the loss of funding through the American Recovery and Reinvestment Act (the "Stimulus Fund") there was a mass update which caused a reduction in Claimant's FAP.
4. Claimant's rent increased to \$318 per month beginning November 1, 2013, which the Department incorporated into Claimant's budget after the increase was verified in December 2013.
5. Claimant's unearned income was reduced to \$1,097 as of November 1, 2013, because the Social Security Administration was recouping an over-issuance of benefits to Claimant.

6. The Department was not made aware of the reduction in his income until January 2014.
7. In a Notice of Case Action dated October 12, 2013, the Department notified Claimant that his FAP was being reduced to \$15 per month. (Exhibit 1, Pages 2-3)
8. On December 6, 2013 the Claimant requested a hearing.

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.

When the Department calculates a FAP budget and eligibility for medical assistance it takes into account, among many other factors, the earned and unearned income the Claimant receives.

It is not within the scope of the Administrative Law Judge's authority to create new guidelines, eligibility criteria, or deductibles that the Department is to use. The issues that can be decided are whether the Department followed policy with respect to each program, based upon the existing rules, laws, policies, etc.

The Claimant did not dispute the amounts used by the Department in his budget. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account his monthly income and expenses.

The Claimant has provided evidence of changes in his income and expenses. That might result in a change in his benefits, but it is not within the scope of this hearing to determine anything other than whether the Department properly calculated his FAP benefits based upon his income and expenses that were verified at the time of the Department's action. There was evidence presented that, since the October 12 Notice of Case Action there have been adjustments made in his FAP. Those adjustments are outside the scope of this hearing. If there was another Notice of Case Action issued with which the Claimant disagrees, it is up to him to submit a timely hearing request to have such Action reviewed.

The Administrative Law Judge, based upon 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 decreased Claimant's Food Assistance Program benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2014

Date Mailed: February 20, 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.

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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

DTJ/las

cc:

