

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

IN THE MATTER OF:

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

Reg. No.: 2014-18981
Issue No(s): 1000; 3008; 5000
Case No.: ██████████
Hearing Date: January 29, 2014
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independent Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective December 1, 2013, ongoing?

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 is an ongoing recipient of FAP benefits.
2. On November 1, 2013, Claimant's employment ended; however, Claimant received two subsequent pay stubs on November 2 and 17, 2013. See Exhibit 1.
3. On November 6, 2013, Claimant filed for unemployment benefits. See Exhibit 1.
4. On November 20, 2013, the Department received Claimant's redetermination, which included an unemployment insurance letter that stated her weekly benefits amount is \$229 and her claim begins on November 3, 2013. See Exhibit 1.

5. On November 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$158 effective December 2013 and it also budgeted her earned income, but no unearned income. See Exhibit 1.
6. On December 9, 2013, Claimant filed a hearing request, protesting her FAP allotment, Family Independence Program (FIP) closure, and the State Emergency Relief (SER) program. See Exhibit 1.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Preliminary matters

First, Claimant requested a hearing disputing her FIP case closure. See Exhibit 1. However, during the hearing it was discovered that Claimant's FIP benefits were reinstated and she is no longer disputing this issue. Therefore, Claimant's FIP hearing request is DISMISSED.

Second, Claimant also requested a hearing disputing the SER program. See Exhibit 1. However, during the hearing it was discovered that Claimant requested the SER hearing request in error. Therefore, Claimant's SER hearing request is DISMISSED.

Based on the above information, this hearing decision will only address Claimant's FAP benefits for the time period of December 1, 2013, ongoing.

FAP benefits

In this case, Claimant is an ongoing recipient of FAP benefits. On November 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$158 effective December 2013 and it only budgeted her earned income. See Exhibit 1.

At the hearing, the Department presented the December 2013 budget from the Notice of Case Action dated November 19, 2013. See Exhibit 1.

It was not disputed that the certified group size was three and there are no senior/disabled/disabled veteran (SDV) members. The Department calculated a gross earned income amount of \$1,599. See Exhibit 1. Claimant disputed this amount. Claimant's argument is that the Department should not have budgeted any earned income due to her employment ending on November 1, 2013. Instead, Claimant argued that the Department should have only budgeted her unemployment income that she began receiving in November 2013.

On November 1, 2013, Claimant's employment ended; however, Claimant received two subsequent pay stubs on November 2 and 17, 2013. See Exhibit 1. The pay stubs information is as follows: (i) pay date on 11/2/2013 and gross amount of \$981.75; and (ii) pay date on 11/17/2013 and gross amount of \$897.75. See Exhibit 1. The Department appeared to have been budgeting \$1,599 on previous FAP budgets and the Claimant did not dispute the amount budgeted. Claimant's concern was that her employment ended and the Department should not have budgeted her earned income. Claimant testified that she first notified the Department that her employment ended in early to mid-November 2013; however, she did not receive a phone call back.

Additionally, on November 6, 2013, Claimant filed for unemployment benefits. See Exhibit 1. On November 20, 2013, the Department received Claimant's redetermination, which included an unemployment insurance letter that stated her weekly benefits amount is \$229 and her claim begins on November 3, 2013. See Exhibit 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 6-7.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses

actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department uses income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5.

For stopping income, budget the final income expected to be received in the benefit month. BEM 505, p. 7. Use the best available information to determine the amount of the last check expected. BEM 505, p. 7. Use information from the source and from the client. BEM 505, p. 7. Remove stopped income from the budget for future months. BEM 505, p. 7.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's earned and unearned income in accordance with Department policy.

First, Claimant credibly testified that she notified the Department that her employment had ended in November 2013. Claimant's credibility is supported by the fact that the Department received on November 20, 2013, an unemployment insurance letter that stated her weekly benefits amount is \$229 and her claim begins on November 3, 2013. See Exhibit 1. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. Income reporting requirements include the starting and stopping of employment. See BAM 105, p. 9. Based on this information, the Department had knowledge that her employment had ended in November 2013. BAM 105, p. 9 and See Exhibit 1.

Second, the Department should not have budgeted Claimant's earned income for December 2013, ongoing and only have budgeted her unearned income. For stopping income, budget the final income expected to be received in the benefit month. BEM 505, p. 7. Use the best available information to determine the amount of the last check expected. BEM 505, p. 7. Use information from the source and from the client. BEM 505, p. 7. Remove stopped income from the budget for future months. BEM 505, p. 7. Based on the above information, the Department should have only budgeted her earned income expected to be received in the benefit month, which in this case was November 2013. The Department removes stopped income from the budget for future months. BEM 505, p. 7. Therefore, the Department should have removed the stopped income for December 2013 (a future month). BEM 505, p. 7. On the other hand, Claimant provided evidence that she began receiving unemployment income in November 2013. Instead, the Department should have budgeted her unemployment income as unearned income for December 2013, ongoing.

In summary, the Department will recalculate her FAP benefits for December 1, 2013, ongoing, and only include her unearned income in the budget for the time period above.

It should also be noted that Claimant's monthly housing expense is \$0, which Claimant did dispute. See Exhibit 1. Claimant testified that she as a monthly lot rent in the

amount of \$461. The Department testified that it did not have any record of a lot rent and has not budgeted such in the past. Claimant testified that she was unsure if she reported such expenses to the Department in the past, however, thought she might have in an application in years past.

For groups with no SDV members, the Department uses excess shelter up to the maximum in RFT 255. BEM 554 (July 2013), p. 1. The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Housing expenses include a lot rental. See BEM 554, p. 12. The Department verifies the shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department properly did not include housing expenses in Claimant's FAP budget effective December 1, 2013, ongoing. Claimant failed to present credible testimony or evidence that she reported the lot rental expense to the Department. The Department did not budget such housing expense due to Claimant's failure to report. Therefore, the Department properly did not include housing expenses in the FAP budget effective December 1, 2013, ongoing. BEM 554, pp. 1, 12, and 14.

DECISION AND ORDER

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 improperly calculated Claimant's FAP benefits effective December 1, 2013, ongoing.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget (including only unearned income and excluding any earned income and housing expenses) effective December 1, 2013, ongoing, and in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 1, 2013, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FIP and SER hearing request is **DISMISSED**.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 3, 2014

Date Mailed: February 3, 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

EJF/cl

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