

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19708
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 27, 2014
County: Oakland (63-04)

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly issue Food Assistance Program (FAP) benefits to Claimant for [REDACTED] 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 was an ongoing recipient of FAP benefits.
2. In connection with processing Claimant's [REDACTED], 2013, State Emergency Relief (SER) application, the Department became aware that Claimant had employment income.
3. The Department recalculated Claimant's FAP eligibility and, using inaccurate employment information, concluded that Claimant was not income eligible for FAP benefits.

4. On [REDACTED], 2013, Claimant filed a request for hearing disputing the Department's actions and alleging that she did not receive notice of her FAP case closure.

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, as a preliminary matter, the timeliness of Claimant's hearing request is considered. Department policy provides that a client has 90 calendar days from the date of a written notice of case action to request a hearing. BAM 600 (July 2013), p. 5. In this case, the Department testified that Claimant's FAP case was closed effective [REDACTED], 2013, pursuant to a [REDACTED], 2013, Notice of Case Action. Claimant's [REDACTED], 2013 request for hearing is more than 90 days after the [REDACTED], 2013, Notice of Case Action. However, the Department did **not** provide a copy of the relevant Notice with its hearing packet. While Claimant confirmed that the address on a copy of the [REDACTED], 2013, Notice presented to her during the hearing was her address, she testified that she did not receive this document at the time it was sent, only when a subsequent caseworker who processed her [REDACTED] 2013 FAP application sent her a copy. Claimant also testified that, contrary to the Notice, she received \$18 in FAP benefits for the month of [REDACTED] 2013. At the hearing, the Department presented evidence that it had used incorrect income information in processing Claimant's FAP eligibility and that it had requested a help-desk ticket to correct Claimant's [REDACTED] 2013 FAP budget. In light of the Department's failure to provide a copy of the [REDACTED] 11, 2013, Notice of Case Action into evidence and the Department's subsequent actions concerning Claimant's [REDACTED] 2013 FAP budget, the undersigned concludes that there were continued Department actions concerning Claimant's FAP actions after the [REDACTED], 2013, Notice of Case Action. Therefore, Claimant's hearing request is timely submitted, and the merits of Claimant's case are addressed.

At the hearing, the Department acknowledged that it had erred in calculating Claimant's gross earned income in the [REDACTED] 2013 FAP budget that resulted in a finding that Claimant was not income eligible for FAP benefits. Specifically, the Department testified that Claimant's gross income should have been \$1,548, rather than the \$1,838 it used. Based on information in Claimant's [REDACTED], 2013, SER application that she earned \$9 hourly at [REDACTED] for 40 hours of employment weekly, Claimant's gross monthly earned income from this employment was \$1,548, the \$360 in weekly

gross income multiplied by 4.3 in accordance with Department policy. See BEM 505 (July 2013), pp. 7-8. Because the Department acknowledged that it calculated Claimant's net income eligibility based on incorrect income information and did not present any further evidence concerning the information used to calculate Claimant's net income eligibility, the Department did not act in accordance with Department policy when it processed Claimant's FAP case for [REDACTED] 2013 ongoing.


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 processed Claimant's FAP case for [REDACTED] 2013 ongoing.

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. Reinstate Claimant's FAP case effective [REDACTED], 2013, if closed as of that date;
2. Recalculate Claimant's FAP budget for [REDACTED] 2013, ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from [REDACTED] 2013, ongoing; and
4. Notify Claimant in writing of its decision.


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

Date Signed: January 29, 2014

Date Mailed: January 29, 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:

