

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

IN THE MATTER OF:



Reg. No.: 2014-21253
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 11, 2014
County: Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Family Independence Specialist.

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) monthly allotment?

FINDINGS OF FACT

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

1. The Claimant is an ongoing recipient of FAP.
2. On December 17, 2013, a Notice of Case Action was issued to the Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective January 1, 2014.
3. On December 23, 2013, a Notice of Case Action was issued to the Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective February 1, 2014.
4. On January 2, 2014, the Claimant filed a request for hearing contesting the Department's actions.

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.

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(3), in pertinent part, states:

A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

See also Bridges Administrative Manual (BAM) which articulates policies regarding the hearing process. The Michigan Administrative Hearing System will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600.

In the instant case, the Claimant noted that there have been several reductions to her monthly FAP allotment. However, the testimony of the Family Independence Specialist confirmed that reductions to the Claimant's FAP allotment, in part, resulted from a mass change in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). Accordingly, there is only jurisdiction to review the issues relating to the computation of the Claimant's monthly FAP allotment.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security Income (SSI) benefit is counted as unearned income. The corresponding monthly State SSI Payment (SSP) benefit amount is counted as unearned income. Family Independence Program (FIP) benefits are also counted as unearned income. BEM 503. All FAP

groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554.

The Family Independence Specialist explained that there had been an increase in the Claimant's SSI benefit. Accordingly, the Department re-calculated the Claimant's monthly FAP allotment with the updated income information. However, in reviewing the FAP budgets for January 2014 and ongoing, the Family Independence Specialist testified that while the Claimant's rent was showing in the Department's computer system, it was not actually being included in the FAP budget. The Family Independence Specialist re-ran the FAP budget with the Claimant's rent included, and this resulted in an increase in the monthly allotment. Accordingly, the Department's determinations of the Claimant's FAP monthly allotment in the December 2013 Notices of Case Action cannot be upheld.

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 determined the Claimant's monthly FAP allotment.

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. Re-determine the Claimant's monthly FAP allotment retroactive to the January 1, 2014 effective date in accordance with Department policy.
2. Issue the Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 13, 2014

Date Mailed: February 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

CL/hj

cc:

