

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20406
Issue No(s): 3007
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Mecosta

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Does the Administrative Law Judge have jurisdiction (authority) to address the June 25, 2013 Notice of Case Action?

Did the Department properly calculate Claimant's 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. On June 25, 2013, the Department sent Claimant a Notice of Case Action that MA benefits would end in August 1, 2013.
2. In October 2013, Claimant was receiving \$[REDACTED] in FAP benefits.
3. On October 5, 2013, the Department sent Claimant a Notice of Case Action showing a decrease due to the American Recovery and Reinvestment Act (Stimulus) ending.
4. Claimant's benefits then went from \$[REDACTED] to \$[REDACTED].
5. The Department sent Claimant a Notice of Case Action on December 7, 2013, effective January 1, 2014, lowering Claimant's FAP benefits from \$[REDACTED] per month to \$[REDACTED] per month.

6. Claimant requested hearing on December 16, 2013.

CONCLUSIONS OF LAW

Concerning Claimant's MA hearing request, the ALJ lacks jurisdiction. Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600, p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to on June 25, 2013. Claimant did not request hearing within 90 days of the Notice, which is final.

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, Concerning the change from \$█ to \$█ addressed in October 5, 2013, Notice of Case Action, the Request for Hearing is Dismissed with respect to this issue. 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. BAM 600.

In the instant case, the evidence and testimony provided confirm that Claimant is disputing a change in her Food Assistance Program (FAP) allotment that 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). As there is no right to contest the change in law or policy, the Request for Hearing is dismissed with respect to the October 5, 2013 Notice of Case Action.

Concerning the change from \$ [REDACTED] to \$ [REDACTED] the Department did not meet its burden of proof. The Department failed to provide any documents showing the calculation of Claimant's excess shelter deduction. The worker had to leave the hearing area to collect such information, and after diligent review of the record, the Administrative Law Judge can determine that although the Department's calculations are in the ballpark and seem accurate, the calculations are not clear and supported by appropriate documentation.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it issued the .

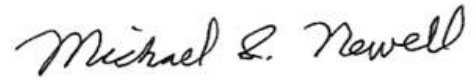
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to October 5, 2013 Notice of Case Action and **REVERSED IN PART** with respect to the December 7, 2013 Notice of Case Action.

Claimant's request for hearing regarding the June 25, 2013 MA decision is dismissed for lack of jurisdiction.

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 benefits for January 1, 2014.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

NOTICE OF AP PEAL: 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

2014-20406/MSN

P.O. Box 30639
Lansing, Michigan 48909-07322

MSN/las

cc:

