

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-23373
Issue No(s): 3002
Case No.: [REDACTED]
Hearing Date: February 13, 2013
County: Kent

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 February 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] AP Supervisor.

ISSUE

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. The Department worker testified that due to Departmental error, the Department requested housing cost information in December 2013, which it should have requested in June 2013.
2. Due to the error, the Department had not accurately budgeted Claimant's housing expenses.
3. In an attempt to correct the Department's error, the Department retroactively applied the rental housing changes to August 2013, pending verification.
4. The retroactive application would have resulted in a supplement, as evidenced by the December 26, 2014 Notice of Case Action. (See Exhibit 1.)
5. The Department allegedly sent Claimant a Verification Check list on December 26, 2013, with an alleged due date of January 6, 2013. The worker testified during the hearing that if Claimant had complied with the verification checklist

by the due date, the Department would have made the housing information retroactive for FAP benefits beginning August 2013.

6. The Department did not provide the Administrative Law Judge with a copy of the verification checklist for the hearing.
7. Claimant did not recall receiving a copy of the verification checklist and did not believe that she received it.
8. Claimant did not know of any January 6, 2013 due date.
9. On January 14, 2014, Claimant submitted her shelter expenses.
10. The Department increased Claimant's FAP benefits effective February 14, 2014 but declined to apply the verification retroactively because of the January 6, 2013 deadline, essentially reversing the December 26, 2013 Notice.
11. The Department did not provide a copy of any Notice of Case Action for the hearing relative to the decision outlined in paragraph 10.
12. The worker testified that if the verification that Claimant submitted on January 14, 2014 had been submitted by the January 6, 2014 deadline, it would have been sufficient for retroactive application.
13. Claimant requested hearing on January 14, 2014.

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, the Department did not meet its burden of proof that it sent Claimant the verification checklist because it did not provide a copy as an exhibit for the hearing. The best evidence of the verification checklist is a copy of the checklist itself and not the Department's interpretation of it. Nothing prevented the Department from providing the document before the hearing.

Because the purpose of the Verification Checklist was to correct a Department oversight in June 2013, and the Department did not show by a preponderance of the evidence that it sent the checklist, Claimant should not be penalized for not complying with a Verification Checklist that the Department did not demonstrate that it sent to Claimant.

Without a copy of the Notice of Case Action, it is difficult to affix a precise date for the change effective February 1, 2014, so the effective date it referenced herein.

Claimant did not take issue with the amount of benefits that she was awarded in February and sought only retroactive application of her housing expenses.

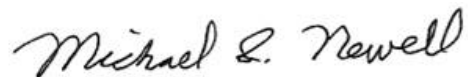
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits..

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's FAP benefits from February 1, 2014 and **REVERSED IN PART** with respect to the Department's Decision to reverse its December 26, 2014 Notice of Case Action regarding retroactive benefits.

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. Apply Claimant's shelter expenses submitted in January 14, 2014 retroactive from August 1, 2013 to January 31, 2014,
2. Request any additional information from Claimant if the January 14, 2014 verification is not sufficient.
3. In accordance with policy, issue any necessary supplemental benefits.



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

Date Signed: February 19, 2014

Date Mailed: February 19, 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
P.O. Box 30639
Lansing, Michigan 48909-07322

MSN/las

cc:

