

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

IN THE MATTER OF:



Reg. No.: 2014-24053
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 25, 2014
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 25, 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, [REDACTED] ES Worker, [REDACTED] Departmental Analyst.

ISSUE

Did the Department properly decrease 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. In June 2013, the Department received a home owner's insurance policy expense.
2. Claimant was receiving food benefits at the time.
3. The Department failed to timely enter the information into the budget and entered the expenses on January 8, 2014.
4. This resulted in a food supplement of \$ [REDACTED] and increased Claimant's benefits from January 1, 2014 through April 30, 2014 from \$ [REDACTED] per month to \$ [REDACTED] per month.
5. On January 17, 2014, the Department received Claimant's hearing request.

6. As a result of her hearing request, the Department reviewed her homeowner's insurance policy, realized that it expired on September 6, 2013, and decreased her benefits effective January 24, 2013.

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 handle this case properly. The Department conceded at the hearing that if it had properly handled the homeowner's insurance policy under Departmental policy, then policy would have required it to be entered about the time it was received and for the Department to issue a verification checklist near the time the policy expired. Instead, the Department attempted to correct the issue in January 2014 and then reversed its position subsequent to the expiration of the policy in response to Claimant's hearing request. The Department should have requested verification before taking negative action, particularly since the problem was caused by Departmental error.

The Department argued that it issued a Verification Checklist after it took negative action. Whether Claimant complied with the Verification Checklist is not before the ALJ because it occurred after Claimant's hearing request. The ALJ has jurisdiction regarding the decrease in benefits on January 24, 2014 because, according to the Department's hearing summary and testimony, the Department took this action in direct response to Claimant's hearing request.

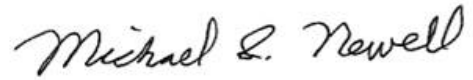
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Claimant's FAP benefits.

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. Issue a Verification Checklist specifying what information is needed if any information is still needed relative to Claimant's homeowners policy from September 6, 2013.
2. Redetermine benefits, including any supplemental benefits.



MICHAEL S. NEWELL
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2014

Date Mailed: March 7, 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

MSN/las

cc:

