

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24966
Issue No(s): 3001; 3008
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Specialist.

ISSUES

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on December 18, 2013?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$6 effective January 1, 2014?

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 December 18, 2013, Claimant appeared at a previous administrative hearing (Registration #2014-14048), in which she disputed her FAP case closure.
2. On December 18, 2013, the Administrative Law Judge (ALJ) sent a (D&O) in which it ordered the Department to reinstate Claimant's FAP case as of November 1, 2013 and issue supplements to the Claimant if eligible (Registration #2014-14048).
3. Effective December 2013, Claimant's FAP benefits remained closed.

4. On December 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$6 effective January 1, 2014, ongoing. See Exhibit 1.
5. On January 23, 2014, Claimant filed a hearing request, protesting her FAP allotment and also the Department's failure to process the D&O from the previous hearing. See Exhibit 1.

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.

Prior Administrative Hearing

On December 18, 2013, Claimant appeared at a previous administrative hearing (Registration #2014-14048), in which she disputed her FAP case closure. On December 18, 2013, the ALJ sent a D&O in which she ordered the Department to reinstate Claimant's FAP case as of November 1, 2013 and issue supplements to the Claimant if eligible (Registration #2014-14048). On January 23, 2014, Claimant filed a hearing request, protesting the Department's failure to reprocess the D&O from the previous hearing.

At the hearing, Claimant testified that the Department did not reinstate her FAP benefits for December 2013 and/or received benefits. See Hearing Summary, Exhibit 1. During the hearing, the Department testified that it implemented the D&O and her FAP benefits remained closed for December 2013. The Department's testimony kept referencing that the December 2013 FAP benefits were closed due to a group member being eligible for the program in another case. However, a review of the Notice of Case Action dated November 6, 2013, states that Claimant's MA benefits were denied effective November 1, 2013, ongoing, due an individual being eligible for the program in another case. See Exhibit 1. This denial was in regards to the MA benefits and not the FAP program. Moreover, the FAP benefits were closed due to the failure to provide verification that the previous administrative hearing addressed. See Exhibit 1. This hearing will not address Claimant's FAP case closure as the previous administrative hearing had already done on December 18, 2013.

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (July 2013), p. 38. Some hearing decisions require implementation

by the local office. BAM 600, p. 38. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 38. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 39. Complete and send the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 39.

Based on the foregoing information and evidence, it is determined that the Department failed to implement and certify the D&O from the previous administrative hearing dated December 18, 2013 (Reg. #2014-14048). The evidence indicated that Claimant's FAP benefits remained closed (other than January 2014). Moreover, the Department kept referencing the December 2013 closure due an individual being eligible for the program in another case. See Exhibit 1. However, it was discovered that this was in regards to MA benefits and not FAP benefits. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it was unable to provide evidence that it properly implemented and certified the D&O from the previous administrative hearing dated December 18, 2013 (Reg. #2014-14048). BAM 600, pp. 38-39.

FAP benefits for January 2014

On December 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$6 effective January 1, 2014, ongoing. See Exhibit 1. On January 23, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1.

It was not disputed that the certified group size is five and that the FAP group does not contain a senior/disabled/disabled veteran (SDV) member. The Department presented the January 2014 FAP budget for review. See Exhibit 1. The Department calculated Claimant's gross earned income to be \$2,283, which she did not dispute. See Exhibit and BEM 505 (July 2013), pp. 1-8.

The Department also calculated Claimant's unearned income amount to be \$846. See Exhibit 1. This amount consisted of each of the Claimant's three grandchildren receiving Retirement, Survivors, and Disability Insurance (RSDI) income. The Department counts the gross benefit amount as unearned income for RSDI. See BEM 503 (January 2014), p. 28. A review of the SOLQ for each grandchild indicated that each one receives \$282 in RSDI income. See Exhibit 1. Thus, the Department properly calculated the unearned income amount of \$846 (\$282 multiplied by three).

This results in a total income amount of \$3,129 (\$2,283 earned income plus \$846 unearned income). See Exhibit 1. The Department then applied the 20 percent earned income deduction to Claimant's earned income amount of \$2,283. BEM 550 (July 2013), p. 1.

Twenty percent of \$2,283 is \$457, which results in a post earned income of \$2,672 (\$3,129 total income amount minus \$457 earned income deduction). See Exhibit 1.

The Department then applied the \$190 standard deduction applicable to Claimant's group size of five. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$190 standard deduction, this results in an adjusted gross income of \$2,482. See Exhibit 1.

Then, Claimant testified that the FAP group does not contain any SDV members. For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. RFT 255, p. 1. RFT 255 indicates that the standard shelter maximum for non-SDV members is \$478. RFT 255, p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$161 (homeowners insurance). See Exhibit 1. Claimant did not dispute this amount. Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554 (July 2013), pp. 12-13. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit. Then, the Department subtracts the total shelter amount from fifty percent of the adjusted gross income. When the Department subtracts the total shelter amount from fifty percent of the gross income, this amount is found to be \$0 because her shelter amount is less than ½ of the adjusted gross income. See Exhibit 1. Thus, Claimant is not entitled to an excess shelter deduction.

Finally, the Department then subtracts the \$2,482 adjusted gross income from the \$0 excess shelter deduction, which results in a net income of \$2,482. See Exhibit 1. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$6. RFT 260 (December 2013), p. 32.

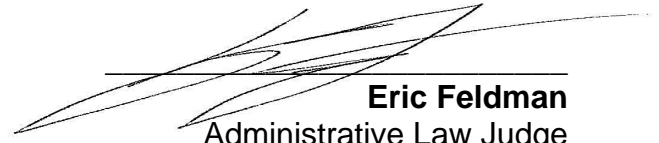
DECISION AND ORDER

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 (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it unable to provide evidence that it properly implemented and certified the D&O from the previous administrative hearing dated December 18, 2013 (Reg. #2014-14048); and (ii) acted in accordance with Department policy when it properly calculated Claimant's FAP allotment in the amount of \$6 effective January 1, 2014.

Accordingly, the Department's FAP decision is AFFIRMED IN PART with respect to January 2014 FAP allotment and REVERSED IN PART with respect to D&O from the previous administrative hearing dated December 18, 2013 (Reg. #2014-14048).

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. Implement and certify the D&O from the previous administrative hearing dated December 18, 2013 (Reg. #2014-14048) in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 4, 2014

Date Mailed: March 4, 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:

2014-24966/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

