

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

IN THE MATTER OF:



Reg. No.: 2014-29942
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 27, 2014
County: Genesee #02

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 March 27, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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. On January 5, 2014, Claimant informed the Department that her income and her husband's income were decreasing for January.
2. The worker advised Claimant to submit 30 days of pay stubs.
3. The worker did not send Claimant a verification checklist.
4. On January 30, 2013, Claimant submitted 30 days of pay stubs for herself and her husband.
5. On February 6, 2014, the Department issued a Notice of case action increasing Claimant's benefits effective March 1, 2014.
6. Claimant submitted a hearing request for FAP.

7. Claimant request supplemental benefits for December, January, and February but does not challenge the amount awarded from March.

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 erred in failing to supplement Claimant's benefits for February 2013. BEM 505, p 9 provides in relevant part: "Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely." The change was reported on January 5, 2014 and must affect the month after. Notably, the evidence in the record does not show a change of income for December 2013. (See Exhibit 3). Claimant only provided the last month in December, and it is found that Claimant reported a change of income for January. No supplement is required or permitted for January but must apply to the month after the change was reported.

The Department argued that Claimant did not verify until January 30, 2014. BEM 505 directs the Department to complete a budget when a client "reports" income change that will affect benefits. BEM 505, p 2 two directs the Department to "Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible." BEM 505 directs the Department to determine prospected income in a case such as this by asking for expected hours, rate of pay, etc. The Department did not do so and is required by policy to do so. Although the Department is correct that a client has ten days to verify, BEM 505 directs the Department to request verification if necessary. The procedure to request verification is spelled out in BAM 130 and requires a written request. Here, however, no verifications were required to calculate prospective income for January as directed by BEM 505, although the Department could certainly request necessary verification thereafter. The Department is essentially arguing that the change should be calculated when verification was received. For reasons already considered, the prospective budget was required to be determined when *reported* and not when verified, particularly given that Claimant reported a prospective change and no verifications were requested in accordance with BAM 130.

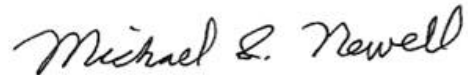
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to benefits effective March 1, 2014 and **REVERSED IN PART** with respect to supplemental 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. The Department shall calculate Claimant's benefits for February 2014 to account for any changes in income and issue and retroactive or supplemental benefits for February 2014.



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

Date Signed: April 4, 2014

Date Mailed: April 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:

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

MSN/las

cc:

