

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-31232
Issue No(s): 3008
Case No.: ██████████
Hearing Date: April 7, 2014
County: Wayne (15)

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 April 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly decrease Claimant's Food Assistance Program (FAP) allotment in the amount \$48 for March 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. Claimant is an ongoing recipient of FAP benefits. See Exhibit 1.
2. On January 27, 2014, Claimant submitted a redetermination, which included verification of his shelter expenses in the amount of \$750. See Exhibit 1.
3. On February 25, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$48 effective March 1, 2014. See Exhibit 1.
4. On February 25, 2014, the Notice of Case Action also indicated that Claimant's shelter expenses were \$206.86. See Exhibit 1.

5. On March 5, 2014, Claimant filed a hearing request, protesting his FAP allotment. 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.

In this case, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1. On January 27, 2014, Claimant submitted a redetermination, which included verification of his shelter expenses in the amount of \$750. See Exhibit 1. On February 25, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$48 effective March 1, 2014. See Exhibit 1. On February 25, 2014, the Notice of Case Action also indicated that Claimant's shelter expenses were \$206.86. See Exhibit 1.

Additionally, it was discovered that the Department requested Claimant's lease agreement and it was received via fax on March 12, 2014. See Hearing Summary, Exhibit 1. Moreover, the hearing summary indicated that the budget reflected the shelter expenses and Claimant's FAP benefits increased from \$48 to \$189 effective April 2014. See Hearing Summary, Exhibit 1. It should be noted that the Eligibility Summary indicated Claimant's FAP benefits did increase to \$189 for April 2014. See Eligibility Summary, Exhibit 1. Thus, Claimant's only issue present in this hearing was his decrease in FAP benefits for March 2014.

At the hearing, Claimant testified that his rent at the current address has been \$750 since April 2013. Moreover, Claimant testified that when he submitted his redetermination that he included verification of his lease agreement. This is supported by the fact that Claimant's redetermination did include verification of his shelter expenses in the amount of \$750. See Exhibit 1. However, when Claimant received the Notice of Case Action dated February 25, 2014, it indicated his shelter expenses were \$206.86. See Exhibit 1. Claimant did not know where this amount originated from.

It was unclear from the Department's testimony whether the March 12, 2014 fax was the first time it received verification of the shelter expenses in the amount of \$750. Also, it was unclear why the Department did not apply the submitted shelter expenses to the March 2014 budget.

The Department verifies shelter expenses at application and when a change is reported. BEM 554 (February 2014), p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14.

When the Claimant completes the redetermination process, the Department will update data collection by recording changes in circumstances and entering verifications received; run eligibility determination and benefit calculation (EDBC) the system; certify EDBC results if appropriate; review the need for services and other assistance programs; and generate a verification checklist (VCL) for any missing verifications. BAM 210 (October 2013), p. 15.

Also, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, pp. 6-7.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits for March 2014 in accordance with Department policy. The evidence presented that Claimant submitted verification of his shelter expenses in the amount of \$750 on January 27, 2014. See Exhibit 1. It is unclear why the Department requested subsequent verification of this document and only applied it to his April 2014 benefits, ongoing. Claimant submitted the verifications at the end of January 2014, which was before the redetermination due date and before the end of the benefit period (February 28, 2014). See Exhibit 1. As such, Claimant's shelter expenses should have been \$750 for March 2014, ongoing because he timely submitted the verification documents in accordance with Department policy. See BAM 210, pp. 14 – 18. Thus, the Department will recalculate his FAP benefits for March 2014, ongoing and include his shelter expenses in the amount of \$750 for this time period. BAM 210, p. 15; BAM 220, pp. 6-7; BEM 554, p. 14.

It should be noted that the Claimant did not dispute any of the additional calculations shown in the Notice of Case Action (dated February 25, 2014), i.e. unearned income amount. See Exhibit 1. Moreover, Claimant provided a water bill with his hearing request. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount. RFT 255 (December 2013), p. 1. Therefore, Claimant is only entitled to the \$553 heat and utility standard. RFT 255, p. 1.

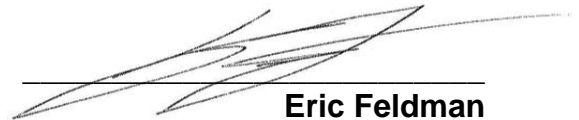
DECISION AND ORDER

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 did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits for March 2014.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget for March 1, 2014, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

Date Signed: April 9, 2014

Date Mailed: April 9, 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.

2014-31232/EJF

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]