

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14 000576
Issue No(s): 3008, 3001
Case No.: [REDACTED]
Hearing Date: May 1, 2014
County: Wayne County DHS 57

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, telephone hearing was held on May 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly calculate the Claimant's FAP benefits for December 2013?

Did the Department properly close the Claimant's FAP effective 4/1/114 and remove the Claimant's child from the FAP group and reduce the unearned income by that child's income of [REDACTED].

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 closed the Claimant's FAP case for December 2013 due to excess income.
2. The Department also closed the Claimant's case effective April 1, 2014 by notice of case action due to excess income. Exhibit 5
3. The Claimant requested a hearing on March 23, 2014 protesting the Department's failure to comply with the hearing decision in a timely manner and the closure of her FAP benefits for April 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, in this case the Claimant requested a hearing to determine why her food assistance case remained closed for December 2013. There had been several prior hearings which addressed this issue. In the instant case, the food assistance budget was reviewed for December 2013. The unearned income of [REDACTED] was confirmed as correct by both the Claimant and the Department.

The earned income which was used by the Department in the amount of [REDACTED] was determined to be incorrect. When calculating the December 2013 benefits the Department is required to use the last 30 days of income. (November 2013). The Claimant provided the Department a verification of employment and payroll information. Exhibit 3 The Department used two incomes for two pay periods in November 2013 as the Claimant is paid bi-weekly. The amounts received in November were [REDACTED] and [REDACTED]. Based upon the Department policy found in BEM 506, the Department is to add the pay amounts together to determine the average biweekly pay and then multiply that amount by 2.15. ([REDACTED]) is the correct earned income amount as per Department policy and thus the budget for food assistance submitted by the Department is incorrect and must be recalculated. Exhibit 4. BEM 506, pp. 6, 8 (71/1/3). As part of the review of the budget the Claimant confirmed that the Department used the correct shelter amount of [REDACTED] and was given a heat utility allowance, and thus the remainder of the budget was correct as calculated as was the group size of five.

The Department also closed the Claimant's food assistance case effective April 1, 2014. At that time, the Department was to have removed one of the Claimant's children from the group, as well as the Claimant's child's income of [REDACTED]. The Department issued a notice of case action on February 25, 2014 which closed the Claimant's food assistance case effective March 1, 2014. At the hearing, the Department had testified that the closure had occurred April 1, 2014. This date discrepancy was not explained at the hearing as the notice of case action was received after the hearing and is for a March 1, 2014 closure. Exhibit 5

While the notice of case action appears to be correct and shows unearned income properly reduced to [REDACTED] as well as earned income of [REDACTED], the group size utilized to make the decision is not shown on the notice of case action, nor is the Claimant's net income amount provided. The Claimant confirmed that the [REDACTED] earned income amount was correct. The Department did not produce a food assistance budget which supported the March 1, 2014 notice of case action and closure of the food assistance and therefore its determination must be reversed and food assistance benefits recalculated once again to determine whether the March 2014 closure was correct.

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 the Claimant's earned income for December 2013 as it used an incorrect earned income amount.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Food Assistance as of March 1, 2014 and could not produce a budget to support the closure.

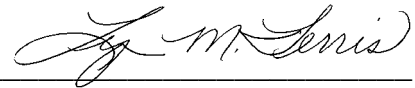
DECISION AND ORDER

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. The Department shall recalculate the December 2013 FAP budget and determine the benefits based upon the November 2013 earned income and in accordance with this Decision.
 2. If the Claimant is determined to be eligible to receive December FAP benefits, based upon the re-calculation of FAP benefits, the Department shall issue a supplement to the Claimant for FAP benefits, if any, the Claimant was otherwise eligible to receive in accordance with Department policy.
 3. The Department shall recalculate the Claimant's March 2014 FAP benefits on the basis of a FAP group of 4 members and reduced unearned income of [REDACTED] due to the removal of one of the child group members to another FAP group.
 4. If the Claimant is deemed eligible for FAP benefits based upon the recalculation of FAP benefits, the Department shall reinstate the Claimant's FAP case and

issue a FAP supplement to the Claimant for FAP benefits, if any, the Claimant was otherwise eligible to receive in accordance with Department policy.

5. If the Department determines that the Claimant is not eligible for FAP benefits for March 2014, the Department shall provide the Claimant written notice of its determination in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 5, 2014

Date Mailed: May 6, 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

14-000576/LMF

LMF/tm

cc:

