

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-000902
Issue No.: 3004
Case No.: ██████████
Hearing Date: May 12, 2014
County: WAYNE-DISTRICT 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 May 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Specialist; and ██████████, Family Independence Manager.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective January 1, 2014, ongoing?

Did the Department properly process Claimant's change report (change in earned income) effective January 1, 2014, ongoing?

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.
2. On December 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$385 effective January 1, 2014, ongoing. See Exhibit 1.
3. On February 3, 2014, Claimant submitted to the Department changes in her employment earnings, in which the Department failed to act upon.

4. On April 1, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$385 effective April 1, 2014, ongoing. See Exhibit 1.
5. On April 4, 2014, Claimant filed a hearing request, protesting the Department's failure to process her reported change. 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

As a preliminary matter, Claimant disputes the Department's failure to act on her reported change (employment ended). See Exhibit 1. Claimant testified that she stopped working at her employer in December 2013. Claimant testified, though, that her benefits remained the same even though her employment had ended. Claimant inferred that she is seeking supplemental payments from January 2014 to April 2014 because the Department kept budgeting her employment income even though it had ended. Claimant testified that she began working again as of May 2014.

In December 2013, Claimant testified that she stopped working from the local public school system. Claimant testified that this was a temporary position. It should be noted that Claimant kept providing contradictory testimony as to whether her employment ended (terminated) or that she just stopped working, but still considered to be in employed status.

In January 2014, Claimant testified that she submitted updated paystubs to her old DHS office. In January 2014, Claimant testified that she received a letter from the Department, which indicated that her case has been transferred to a new DHS office. Thus, in February 2014, Claimant testified that she attempted to call her new DHS caseworker twice regarding her employment changes. The Department testified that it could not recall any telephone messages. Because she received no phone calls back, Claimant testified that she went to her new DHS office in February 2014. Claimant testified that she submitted the same previous updated paystubs to the DHS office. Claimant testified that she also signed the logbook to show that she submitted such

documentation. During the hearing, the Department obtained the logbook, in which it was discovered that paystubs and/or documentation were submitted on February 3, 2014.

Additionally, in February 2014, Claimant testified that she notified the supervisor and the DHS caseworker that she submitted the paystubs because she had stopped working. Then, on or around March 2014, Claimant testified that she did not receive any response from the Department as to the status of her change report. Therefore, Claimant testified that she went back to the DHS office, in which the DHS caseworker provided her with a form to give to the employer to verify that the employment had ended. On April 15, 2014, the Department received from Claimant's employer a Verification of Employment document, which indicated Claimant's status of employment, but her last payment date was December 13, 2013. See Exhibit 1. Based on this documentation, this indicated that Claimant was never terminated from her employment and that she is still employed. However, the verification does indicate that Claimant did last receive a pay stub on December 13, 2013. See Exhibit 1. It should be noted that these actions were subsequent to Claimant's hearing request.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2014), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 9.

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, p. 6.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits effective March 1, 2014, ongoing.

First, even though it is subsequent to the hearing request, the evidence presented that Claimant was never terminated from her employment and that she is still employed.

See Verification of Employment, Exhibit 1. However, the verification does indicate that Claimant last received earnings on December 13, 2013. See Exhibit 1.

Second, Claimant testified that she stopped working in December 2013 and that she is seeking supplemental payments from January 2014 to April 2014. Claimant testified that she submitted her paystubs to her old DHS office in January 2014. However, the evidence presented that Claimant submitted the updated paystubs at the new DHS office on February 3, 2014. This indicated that Claimant first reported and provided verification of her change in earned income in February 2014. See BAM 105, p. 9. Therefore, Claimant's March 2014 FAP benefits will be the first month affected because she reported the change in February 2014. See BAM 220, pp. 6-7.

Third, the Department failed to process Claimant's reported change in employment earnings effective March 1, 2014, ongoing. As stated previously, on February 3, 2014, Claimant submitted to the Department changes in her earned income. The Department failed to act on this reported change. A change in Claimant's employment earnings would affect her FAP allotment. Therefore, the Department will recalculate Claimant's FAP benefits effective March 1, 2014 because of the reported change in her employment earnings. See BAM 105, p. 9; BAM 220, pp. 6-7; and BEM 505 (July 2013), pp. 1-14.

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 (i) improperly calculated Claimant's FAP benefits effective March 1, 2014, ongoing; and (ii) failed to process Claimant's reported change in employment earnings effective March 1, 2014, ongoing.

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 she 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 J. Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/12/2014**

Date Mailed: **5/12/2014**

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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]
[REDACTED]