

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

IN THE MATTER OF:

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

Reg. No.: 14-002460
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 12, 2014
County: SSPC-West

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on June 12, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included ██████████ (Hearing Facilitator).

ISSUE

Did the Department properly determined Claimant's Food Assistance Program (FAP) monthly allotment amount?

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 applied for FAP on March 3, 2014.
2. On March 10, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's FAP application in the amount of ██████████ per month for a household size of 2 for the period of March 3, 2014 through March 31, 2014.
3. On March 10, 2014, the Department mailed Claimant a Verification Checklist (DHS-3503).
4. On March 28, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied her application for FAP effective April 1, 2014 due to failure to timely and properly provide requested verifications.

5. On April 11, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved (reinstated) Claimant's FAP case with a household size of 2 for April 1, 2014 through April 30, 2014 for [REDACTED] per month and [REDACTED] for the period of May 1, 2014 through March 31, 2015.
6. On April 17, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which "continued" Claimant's FAP case with a household size of 2 for April 1, 2014 through April 30, 2014 for [REDACTED] per month and [REDACTED] for the period of May 1, 2014 through March 31, 2015.
7. On April 30, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which decreased Claimant's monthly FAP benefits to [REDACTED] for the period of June 1, 2014 through March 31, 2015 for a household size of 3. The reason for the intended action was, "Your shelter deduction has changed because shelter expense has changes or income has changed."
8. On May 6, 2014, the Department received Claimant's request for hearing to dispute the FAP reduction.

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.

Here, the Department concedes that it incorrectly calculated Claimant's monthly FAP amount. Specifically, the Department indicated that although Claimant's income was initially entered and budgeted incorrectly, the Department was unable to certify and correct the error due to a Bridges problem. The Department has requested a DTMB Remedy Ticket #BR-0097594 in an attempt to resolve the issue.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

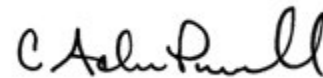
This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There is no dispute for the Administrative Law Judge to resolve in this matter. The Department has admitted that it incorrectly budgeted Claimant's monthly FAP amount when it reduced her monthly benefits to [REDACTED]. The Department has taken active steps in an attempt to resolve the matter. 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 reduced Claimant's monthly FAP benefits to [REDACTED].

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 reprocess and recertify Claimant's application for FAP benefits.
2. The Department shall redetermine Claimant's monthly FAP benefits and, in doing so, also confirm the amount of Claimant's total household countable income.
3. If necessary, the Department shall expedite the pending remedy ticket (BR#-0087594) in an effort to implement the above order.
4. To the extent required by policy only, the Department shall provide Claimant with retroactive and/or supplemental FAP.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/13/2014**

Date Mailed: **6/16/2014**

CAP/sw

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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]