

**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.: 14-002535  
Issue No.: 2000, 3008  
Case No.: ██████████  
Hearing Date: June 12, 2014  
County: Berrien (District #22)

**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. Participants on behalf of Claimant included ██████████ (Claimant). Participants on behalf of the Department of Human Services (Department) included ██████████ (Family Independence Manager/Hearing Facilitator and ██████████ (Assistance Payments Supervisor). ██████████ ██████████ (Migrant Program Worker employed by the Department) served as a Spanish Interpreter/Translator.

**ISSUE**

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

**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 was actively receiving FAP with a group size of 4 and ██████████ monthly allotment amount.
2. Claimant rented a mobile home/trailer and paid ██████████ per month.
3. On December 23, 2013, the Department received Claimant's completed Semi-Annual Contact Report (DHS-1046-SP) along with a letter from Claimant's landlord which indicated he sold the mobile home/trailer unit to Claimant for a total purchase price of ██████████ with ██████████ monthly installment payments.

4. On February 18, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's monthly FAP to ██████ for the period of February 1, 2014 through July 31, 2014.
5. On April 16, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which increased Claimant's monthly FAP to ██████ effective February 1, 2014 through July 31, 2014 and included a supplemental FAP payment of ██████ for February 1, 2014 through April 30, 2014.
6. On May 13, 2014, the Department received Claimant's request for hearing (using the February 18, 2014 notice of case action) concerning FAP and Medical Assistance (MA) program benefits.

### **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).

Claimant requested a hearing concerning MA and FAP. The Administrative Law Judge will address both of these programs separately below.

#### **Food Assistance Program**

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 submits that Claimant's monthly FAP allotment was properly reduced from ██████ to ██████ because her monthly shelter expense decreased from ██████ to ██████. In support, the Department relies upon a copy of a December 6, 2013 letter which indicates that Claimant had purchased the trailer/mobile home and that her monthly shelter expense was now ██████.<sup>1</sup> However, the Department later (in a notice of case action dated April 16, 2014) corrected the error and reinstated Claimant's monthly FAP to ██████ and also provided her with a ██████ supplement. Claimant, on the other hand, contends that the Department erred when it reduced her

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<sup>1</sup> The Department also argued that Claimant was not eligible for FAP because she does not meet the alien status requirement and she was in non-cooperation with child support requirements. The relevant notice of case action in this matter (February 18, 2014) did not address Claimant's alien status nor did it take any action against her FAP case due to her failure to meet child support obligations. Accordingly, this Administrative Law Judge concludes that these issues are not relevant and need not be addressed in this matter.

monthly FAP because her rental expense did not change as she paid [REDACTED] at all times. According to Claimant, she initially lived in a trailer on Lot #47 where she paid [REDACTED] per month and that she purchased a trailer on Lot [REDACTED] where she continued to pay [REDACTED] per month ([REDACTED] for the trailer payment and [REDACTED] for lot rent). Claimant's arguments did not account for the Department's correction of the error and supplemental FAP payment.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554 (2-1-2014), p 13.

Policy requires the Department verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, [the Department shall] remove the old expense until the new expense is verified. BEM 554, p 14. The Department shall also verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p 14.

Acceptable verification sources include, but are **not** limited to:

- Mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company.
- Copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification form. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in Bridges. The due date will be on the form. The specialist must monitor for return of the form and take appropriate action if it is or is **not** returned.
- Current lease. See BEM 554, p 14.

BEM 554, page 26 provides that acceptable verifications at application and reported changes for home purchases are the following:

- DHS-3688.
- Land contract.
- Tax bills.
- Insurance bills.
- Mortgage papers.

- Assessment bills.
- Collateral contact.

**Note:** These types of verifications must identify the client and the client's address and obligations. (See BEM 554, p 26).

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 that the Department initially erred when it determined Claimant's shelter expense at [REDACTED]. The evidence shows that at all times Claimant's shelter expense was [REDACTED] and that the Department should not have relied solely upon the December, 2013 correspondence concerning the sale of the trailer and the [REDACTED] monthly installments. With that being said, the record clearly shows that the Department corrected the error when it issued the April 16, 2014 notice of case action that reinstated Claimant's [REDACTED] monthly FAP allotment and provided her with the [REDACTED] supplemental FAP payment for February, 2014. Claimant has not provided any evidence that the Department acted improperly when it corrected the previous error, reinstated Claimant's previous FAP allotment amount and provided her with a supplemental FAP payment.

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 acted in accordance with Department policy.

### Medical Assistance

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

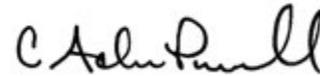
At the time of Claimant's MA hearing request, the Department had not taken any action to suspend, reduce, discontinue or terminate Claimant's MA benefits. Under the administrative rule discussed above, Claimant does not have a right to a hearing and thus, this Administrative Law Judge has no jurisdiction in this matter.

### **DECISION AND ORDER**

Accordingly, the Department's FAP decision is **AFFIRMED**.

Pursuant to Mich Admin Code R 400.906 and R 400.903, Claimant's MA hearing request is **DISMISSED**.

IT IS SO ORDERED.



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

Date Signed: **6/16/2014**

Date Mailed: **6/17/2014**

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**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.

