

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

IN THE MATTER OF:



Reg. No.: 201428090
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 17, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

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

Did the Department properly include Claimant's daughter in her FAP group?

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 an ongoing recipient of FAP benefits.
2. On February 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$20 effective March 1, 2014.
3. On February 20, 2014, Claimant filed a request for hearing concerning the amount of her FAP benefits and also asking why she was not able to obtain FAP assistance for her daughter.

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, two issues were raised during the hearing as a result of Claimant's February 20, 2014 hearing request: (1) the calculation of Claimant's monthly FAP allotment and (2) whether Claimant's daughter had been included in her FAP group.

FAP Allotment for March 1, 2014 Ongoing

The February 13, 2014 Notice of Case Action showed that Claimant's monthly FAP allotment decreased to \$20 effective March 1, 2014 for a group size of two. The Department testified that the reduction was due to Claimant's two sons leaving the FAP group, leaving only Claimant and her daughter in the group. Claimant confirmed that she and her daughter were the only household members in the FAP group.

The Department presented a FAP net income budget showing the calculation of benefits and testified that the only change to the budget was the decrease in group size. The budget showed that Claimant had gross monthly earned income of \$1813, which was based on income information that she provided in her October 2013 redetermination. Although Claimant contended that her income had decreased, she provided documentation concerning this change after her hearing request was filed. Therefore, it was not considered in connection with the budget reviewed. Furthermore, Claimant testified that there were additional reductions in her income due to a decrease in the overtime she received but that these changes would not be evident until she received her March 28, 2014 paycheck. The Department was advised to process these reported changes in accordance with Department policy upon verification by Claimant. See BEM 505 (July 2014), pp. 10-11, 5-6. Claimant is advised that if she does not agree with the Department's future actions concerning her change in income, she can request a hearing.

Based on Claimant's circumstances, Claimant was eligible for the following deductions from her gross income under Department policy:

- an earned income deduction equal to 20% of her gross monthly income, or \$363 in this case (BEM 556 (July 2013), p. 3);
- a standard deduction of \$151 based on her two-person group size (RFT 255 (December 2013), p. 1; BEM 556, p. 4);

- an excess shelter deduction of \$210, which takes into account Claimant's monthly housing expenses of \$306, which Claimant verified, and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size (RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15); and
- expenses for child care and child support.

Claimant confirmed that she had no child support or day care expenses. Based on the information available to the Department at the time the budget was prepared, the Department properly reduced Claimant's \$1813 gross income by the \$363 earned income deduction, the \$151 standard deduction and a \$210 excess shelter deduction. This results in monthly net income of \$1089. Based on net income of \$1089 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$20. BEM 556; RFT 260 (December 2013), p. 14.

FAP Group Size

During the course of the hearing, Claimant expressed concerns that her daughter had not been included in her FAP group. Claimant explained that her daughter, a 15-year-old minor, had been living with her grandmother until April 2011 when she returned to Claimant's home and care. Claimant contended that she requested that the child be added to her FAP case in April 2011 and continued to do so without success.

Parents and their children under age 22 who live together must be in the same FAP group. BEM 212 (February 2014), p. 1. Therefore, if Claimant's daughter was in her home, she was a mandatory member of Claimant's FAP group.

The Department testified that the child continued to be on the grandmother's case until July 31, 2012. The Department was able to establish that Claimant had added the child as a household member in her March 1, 2013 FAP Semi-Annual Contact Report and that Claimant had filed an application including the child as a household member in October 2013. However, the eligibility summary showed that Claimant's FAP group had three members only, which appeared to be Claimant and her two sons, from October 2011 to September 2013. In October 2013, the FAP group size increased to four but then was reduced back to three in November 2013 and the group continued to have three members until March 2014 when, as indicated in the February 13, 2014 Notice of Case Action, Claimant's two sons were removed from the group and Claimant's daughter was added to the group.

A supplemental FAP issuance must be issued when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for. BAM 406 (July 2013), p. 1. If such a supplement is necessary to correct prior months' underissuances, the supplement is limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred: (i) the local office received a request for lost benefits from the eligible group, (ii) the local office discovered that a loss occurred, (iii)

the group requested a hearing to contest a negative action which resulted in a loss, (iv) the group initiated court action to obtain lost benefits.

In this case, Claimant requested a hearing on February 20, 2014. The Department acknowledges that Claimant sought to add her daughter to her FAP case from at least March 1, 2013. Therefore, the Department failed to act in accordance with Department policy to the extent it excluded Claimant's daughter from Claimant's FAP group from March 1, 2013 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to calculation of Claimant's FAP benefits for March 1, 2014 ongoing and REVERSED IN PART with respect to calculation of Claimant's FAP benefits from March 1, 2013 to February 28, 2014.

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. Add Claimant's daughter to her FAP group for March 1, 2013, ongoing if the child was not previously included;
2. Recalculate Claimant's FAP benefits for March 1, 2013 to February 28, 2014;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not between March 1, 2013 and February 28, 2014.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2014

Date Mailed: March 20, 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

ACE/tif

cc:

