

**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.: 14-003722
Issue No.: 3008
Case No.: ██████████
Hearing Date: July 3, 2014
County: Kalamazoo

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 telephone hearing was held on July 3, 2014 from Lansing, Michigan. Participants on behalf of Claimant included ██████████ (Claimant's Authorized Hearing Representative (AHR)) and ██████████ (Claimant). Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ (Family Independence Specialist).

ISSUE

Did the Department properly determine 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 has a household of 3 which included herself and her two children.
2. Claimant was active for FAP with a FAP group size of 2¹ and a monthly allotment of ██████████.
3. Claimant's FAP case was scheduled for redetermination in March, 2014.
4. On March 13, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's FAP group size to 1 and approved Claimant's monthly FAP amount at ██████████ effective March 1, 2014.

¹ One of Claimant's children (her son) was reportedly an ineligible student at the time.

5. On April 25, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which increased Claimant's FAP group size to 2 and approved Claimant's monthly FAP allotment for [REDACTED] effective April 1, 2014. The notice also indicated that the FAP reduction was due to the amount of earned income budgeted from Claimant's daughter, who was reportedly a full-time student at the time.
6. On May 30, 2014, the Department received a request for hearing, which was prepared by Claimant's AHR, to challenge the FAP allotment amount.

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.

In the instant matter, the Department representative and Claimant's AHR did not disagree about the salient facts. The Department representative testified that the Department erred when it calculated the earned income from Claimant's daughter for the month of May, 2014. According to the Department representative, the Department failed to use actual check stubs when the earned income was determined. Accordingly, the Department proposed to correct the error. Claimant's AHR understood the Department's position and agreed to the Department's offer.

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 determined Claimant's monthly FAP allotment effective May 1, 2014.

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 redetermine Claimant's FAP eligibility and monthly FAP allotment amount back to May 1, 2014.
2. The Department shall determine and budget Claimant's total household countable monthly earned income amount using actual paystubs from April, 2014.
3. To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FAP benefits.

IT IS SO ORDERED.



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

Date Signed: **7/3/2014**

Date Mailed: **7/7/2014**

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]