

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003926
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: July 17, 2014
County: WAYNE-57

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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

ISSUE

Did the Department properly include the correct rent for the Claimant's FAP benefit calculation based upon the information provided to the Department?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing FAP recipient and requested a hearing as the Department was using an old rent amount when calculating the Claimant's benefits.
2. The Department sent the Claimant a Semi Annual contact report on January 15, 2014
3. The Department sent the Claimant Shelter verification on June 10, 2014, which when completed indicated that the Claimant was paying rent in the amount of [REDACTED] per month.

4. The Department recalculated the Claimant's FAP benefits to include the new rent effective July 1, 2014.
5. The Claimant requested a hearing on May 27, 2014 requesting a hearing regarding the amount of her FAP benefits and that her rent increases have never been updated.

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.

Additionally, the issue in this case was whether the Department included the correct rent amount for the Claimant when calculating her FAP benefits. The Claimant's current rent amount is [REDACTED] and the Department received the verification on June 18, 2014, as evidenced by the Claimant's fax verification. Thus, the Department is deemed to have received a Shelter verification and must increase the Claimant's rent amount and include it in the July 2014 FAP calculation. Additional proofs were presented by the Claimant at the hearing that she had submitted the rent increase to [REDACTED] in September 2013.

The Claimant presented documents at the hearing covering the period September 2013, which included a Notice of Rent Determination showing the Claimant's rent was [REDACTED] effective September 1, 2013. Exhibit 6. The Claimant also presented a note she wrote to her caseworker dated September 8, 2014 advising that her rent had increased. The Claimant also indicated that she had provided the Department notice of her rent increase to [REDACTED] as of September 14, 2013, and requested a hearing on September 25, 2013, advising the Department that it was not using the correct rent of [REDACTED]. The Department testified that it did not have any of these documents in its file. Based upon the Claimant's testimony, and her explanation, it is determined that the Department did receive the documents and should have processed a rent increase effective October 2013, for \$[REDACTED]. It is inconceivable that the Claimant would have created these documents and that none of the documents are date-stamped is not relevant, as the Claimant's testimony was credible and none of her retained copies would have been date-stamped, as those documents would have been retained by the Department and stamped when received. Based upon this evidence, it is determined that the

Department, based upon the evidence presented, failed to process the reported rent change increasing rent to [REDACTED] for October 2013.

The documents provided by the Department in its file included a lease dated November 2011 by the Claimant, which indicated that the Claimant's rent was [REDACTED]. This was the rent the Department testified that included in the calculation of the FAP benefits ongoing. Exhibit 2. The lease was faxed to the Department on February 5, 2012 and therefore, the changed verified rent amount should have been effective in March 2012. The Department did not present any proofs that it effectuated the rent increase when calculating the Claimant's FAP benefits for that period.

The Claimant completed a semi-annual contact report on January 15, 2014, which indicated that there were no changes to the Claimant's rent. Exhibit 3. The Claimant completed a Redetermination in June 2013, which indicated a change of address and that the rent was [REDACTED]. Exhibit 1 pp. 7

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 failed to process a rent increase as of October 2013 and include in the FAP benefit calculation, rent of [REDACTED] as of October 2013.

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 recalculate the Claimant's FAP benefits for October 2013 ongoing, and shall include in its calculation of FAP benefits rent in the amount of [REDACTED]
2. The Department shall issue a FAP supplement to the Claimant from October 2013 ongoing for FAP benefits that the Claimant was otherwise entitled to receive in accordance with Department policy.
3. The Department is further ordered to verify that it used the correct rent of [REDACTED] for the period March 2012, ongoing through October 2013. If not properly included as the Claimant's rent for the period, the Department shall supplement the Claimant for any FAP benefits the Claimant was otherwise entitled to receive in accordance with Department policy



LYNN M. FERRIS
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 23, 2014

Date Mailed: July 23, 2014

LMF/tm

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:

