

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-004391
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 9, 2014
County: WAYNE (17)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager and ██████████ Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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 completed and returned a Redetermination to the Department in February 2014.
2. The Department learned that Claimant pays child support and redetermined Claimant's eligibility for FAP benefits.
3. On February 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits had increased to \$130.00 per month.
4. On March 11, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. Further, court ordered child support is to be deducted from the net income amount when determining eligibility for FAP benefits. BEM (February 2014), p. 1. Clients are also allowed a deduction shelter expenses. *Id.*

Claimant requested a hearing because he believed that his FAP benefits had not been properly calculated. The Department sent Claimant a Notice of Case Action on February 19, 2014 notifying him that he would receive \$130.00 in FAP benefits effective March 1, 2014. Claimant had previously been receiving \$94.00 per month in FAP benefits. The budget contained in the Notice of Case Action indicated that Claimant received \$1,300.00 per month in RSDI income for himself and his son. Claimant confirmed this information was correct.

The budget further allowed a child support deduction in the amount of \$165.75. However, the Department confirmed at the hearing that its system showed that Claimant actually pays \$191.00 per month in child support. The Department acknowledged that Claimant had been paying \$191.00 per month in child support at least since January 2014. Claimant confirmed that he pays \$191.00 per month in child support. Further, the budget presented by the Department showed Claimant had a housing cost of \$198.89. However, the Department confirmed that in February 2014, Claimant submitted a Redetermination in which he indicated that his housing costs had increased by \$436.00 and provide receipts of payment. The Department agreed that it failed to properly calculate Claimant's FAP benefits as it did not include the increased housing cost and did not allow the proper child support deduction. Claimant indicated that he is disabled and has monthly medical expenses but acknowledged that he had not previously submitted any documentation to the Department for a medical expense deduction.

The February 19, 2014 Notice of Case Action was sent regarding Claimant's benefits effective March 1, 2014. However, the Eligibility Summary presented by the Department showed that Claimant received \$94.00 in FAP benefits in January and

February 2014. Department policy allows for supplements for underissuances in prior months. These supplements are limited to underissuances in the **twelve months** before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits. BAM 406, July 2013), p. 3.

Because it appears that the Department did not properly calculated Claimant's child support payments and possibly his shelter expenses as early as January 2014 and because Claimant requested a hearing to contest the amount of his FAP benefits, the Department is required to issue any supplements Claimant was eligible to receive but did not effective January 2014.

Claimant testified that a Pre-Hearing Conference was held on March 19, 2014. Claimant stated that at the Pre-Hearing Conference, his assigned worker became upset and made statements which caused him to believe his benefits would be further impacted. The Department confirmed that on the same day as the Pre-Hearing Conference, a Notice of Case Action was sent to Claimant notifying him that his benefits would be reduced from \$130.00 to \$94.00. Based on the information provided at the hearing, it appears that the Department continued to use inaccurate information when it further reduced Claimant's FAP benefits on March 19, 2014.

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 policy when it failed to include the correct child support and shelter deductions even though it had the correct information at the time it calculated Claimant's FAP benefits.

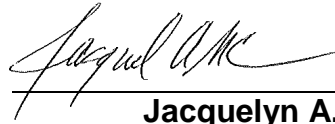
DECISION AND ORDER

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. Recalculate Claimant's FAP benefits effective January 1, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from January 1, 2014, ongoing; and

3. Notify Claimant of its decision in writing.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/18/2014**

Date Mailed: **7/18/2014**

JAM/cl

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]