

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-012152
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: November 13, 2014
County: INGHAM

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on November 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED], mother and Limited Guardian. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine 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. On August 18, 2014, Claimant applied for FAP.
2. On September 9, 2014, a Notice of Case Action was issued to Claimant stating she was approved for a monthly allotment of \$ [REDACTED] effective September 1, 2014.
3. On September 10, 2014, a Notice of Case Action was issued to Claimant stating she was approved for a monthly allotment of \$ [REDACTED] effective October 1, 2014.
4. On September 18, 2014, Claimant filed a request for hearing contesting the Department's action.
5. On September 30, 2014, an error regarding the income entered into the FAP budget was corrected.

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security income (SSI) and Retirement Survivors and Disability Insurance (RSDI) benefits are counted as unearned income. BEM 503. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. Heat and utility expenses can also be included as allowed by policy. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility standard. The Department now includes only the utilities for which a client is responsible to pay. BEM 554.

For a prior FAP case, Claimant had automatically qualified for a heat and utility standard received a FAP monthly allotment of around \$149. Claimant's prior FAP case appears to have closed when there was a change in her residence related to her medical conditions.

Claimant moved back home and on August 18, 2014, she re-applied for FAP. As this application was submitted after May 1, 2014, Claimant was no longer automatically allowed the heat and utility standard. As discussed during the hearing proceedings, this ALJ can only review the Department's determination under the policy in effect at the time of the action, and does not have any authority to change or make an exception to the policy to allow Claimant to automatically qualify for the heat and utility standard again.

The Department has indicated that at least one error was made in determining Claimant's initial FAP allotment for the August 18, 2014 application regarding the amount of the SSI income that was entered into the budget. The Department has since corrected the income error and re-calculated the FAP budget. Claimant and her mother confirmed that the income and shelter amounts in the corrected budget were accurate. The testimony also confirmed that Claimant has not had a heat or utility expense she was responsible to pay. The evidence indicates the corrected FAP budget was accurate.

However, the Department failed to provide sufficient evidence that the correction to Claimant's FAP budget was made retroactive to the August 18, 2014, application date

and that any supplement Claimant may have been due was issued or alternatively, provided sufficient evidence of why the correction should not be made retroactive to the August 14, 2014 application date.


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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's FAP monthly allotment.

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. Re-determine Claimant's FAP eligibility retroactive to the August 18, 2014, application date in accordance with Department policy.
2. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

CL/hj

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 48909-8139

cc:

