

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015750
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: December 11, 2014
County: JACKSON

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, a telephone hearing was held on December 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

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. Claimant is an ongoing FAP recipient.
2. On September 17, 2014, Claimant submitted a change report stating her boyfriend (D. W.) moved into the home on August 25, 2014, and requested that he be added to the FAP case.
3. D.W. was added to Claimant's FAP case and an interview was completed.
4. On October 9, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would increase to \$ [REDACTED] effective October 1, 2014, for the FAP group of 2.
5. A supplemental payment was issued for October 2014 such that Claimant did receive a total of \$ [REDACTED] in FAP benefits that month.

6. On October 21, 2014, Claimant left the Department a voicemail that D.W. moved out on October 19, 2014.
7. D.W. was removed from Claimant's FAP case.
8. On October 22, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective November 1, 2014, for the FAP group of 1.
9. On or about October 26, 2014, Claimant left the Department a voicemail that her child's father had moved into the home.
10. On November 7, 2014, Claimant filed a request for hearing contesting the amount of her monthly FAP allotment.
11. The Department has not yet finished processing the November 2014 Redetermination of Claimant's FAP case.

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105.

The Department evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates: circumstance start/change date, reported on, verification received on, date client became aware. BAM 220.

For FAP, the Department is to act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220.

Benefit Increases: Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due

date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220.

Benefit Decreases: If the reported change will decrease the benefits or make the household ineligible, action must be taken and a notice issued to the client within 10 days of the reported change. **Example:** Debra calls on March 22nd and reports that her husband left the home. Act on the change and issue the negative action notice by April 1st. The change will be effective for May's benefits. BAM 220.

For non-income changes, the Department is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. See BEM 212 and 550 for policy regarding effective dates for member adds. The benefit month **cannot** be earlier than the month of the change. BAM 220.

A member add that increases benefits is effective the month after it is reported **or**, if the new member left another group, the month after the member delete. BEM 220.

A **member add** that increases benefits is effective the month **after** it is reported **or**, if the new member left another group, the month after the member delete. BEM 550.

In this case, on September 17, 2014, Claimant submitted a change report stating her boyfriend (D. W.) moved into the home on August 25, 2014, and requested that he be added to the FAP case. D.W. was added to Claimant's FAP case and an interview was completed. On October 9, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would increase to \$325 effective October 1, 2014, for the FAP group of 2. Further, the Department confirmed that a supplemental payment was issued for October 2014 such that Claimant did receive a total of \$325 in FAP benefits that month. The Department acted in accordance with the above cited BEM and BAM policy provisions to add DW to Claimant's FAP case effective October 1, 2014, the month after Claimant's September 17, 2014 report that he had moved in.

On October 21, 2014, Claimant left the Department a voicemail that D.W. moved out on October 19, 2014. D.W. was removed from Claimant's FAP case. On October 22, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$162 effective November 1, 2014, for the FAP group of 1. The Department acted in accordance with the above cited BEM and BAM policy provisions to remove DW from Claimant's FAP case effective November 1, 2014, by acting on this change and issuing the negative action notice within 10 days.

On or about October 26, 2014, Claimant left the Department a voicemail that the child's father had moved into the home. The Department confirmed that Claimant's voicemail was received and they planned to address this at the same time a November 2014 Redetermination for Claimant's FAP case was processed. However, the Department

had not been able to complete the November 2014 Redetermination by the time this hearing was held on December 11, 2014. Accordingly, the Department has not acted in accordance with the BEM and BAM policy provisions as the have not yet acted on the change in household composition reported on October 26, 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

- acted in accordance with Department policy when it determined Claimant's FAP monthly allotment for September and October 2014.
- did not act in accordance with Department policy when it did not timely act on the change in household composition reported on October 26, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to Claimant's FAP monthly allotment for September and October 2014 and REVERSED IN PART with respect to not timely acting on the change in household composition reported on October 26, 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. Re-determine Claimant's FAP monthly allotment retroactive to November 2014, in accordance with Department policy.
2. Issue Claimant any supplement she may thereafter be due.

Colleen Lack

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

Date Signed: **12/12/2014**

Date Mailed: **12/12/2014**

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:

