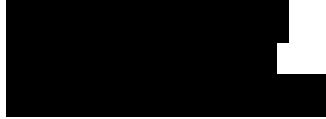


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-002190
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: June 17, 2014
County: Midland

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 June 17, 2014, at the Midland County Department of Human Services (Department) office. Claimant personally appeared and testified. Participants on behalf of the Department included Eligibility Specialist [REDACTED]

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits due to excess income?

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 2/4/14, Claimant submitted the FAP redetermination.
2. On 5/8/14, the Department telephoned Claimant and informed Claimant his FAP benefits would be terminated based on excess income and Claimant should request an in-person hearing.
3. On 5/12/14, Claimant went into the DHS office and requested an in-person hearing.

CONCLUSIONS OF LAW

As an initial matter, the Department did not issue a Notice of Case Action in this case. However, according to Departmental policy, Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600, p 1 (3/1/14). Therefore, jurisdiction was proper in this case.

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.

The Departmental representative explained that a Notice of Case Action was not issued in this case because the decision to deny Claimant's redetermination was not made in February, 2014. Instead of the Notice of Case Action, the Departmental representative submitted a FAP – Gross Income Test printed on 5/15/14, as proof of the decision to deny Claimant's redetermination based on gross income.

In addition to the lack of a Notice of Case Action in this case, the Department failed to schedule a meaningful prehearing conference.

On receipt of a hearing request, the hearings coordinator must schedule a meaningful in-person prehearing conference with the client and AHR and a first-line supervisor for the 11th calendar day from the receipt of the request for hearing. When the 11th day falls on a non-workday, the prehearing conference must be scheduled as soon as possible, but no later than the 14th calendar day from the date the request for hearing was received at DHS. BAM 600, p 15 (3/1/14).

The Department must assure that clients receive the services and assistance for which they are eligible. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or AHR rather than through a hearing. BAM 600, p 15 (3/1/14).

A meaningful prehearing conference includes **at a minimum**, performing **all** of the following:

- Determine why the client or AHR is disputing the DHS action.
- Review any documentation the client or AHR has to support his/her allegation.
- Explain the Department's position and identify and discuss the differences. BAM 600, pp 16-17 (3/1/14).

During the lengthy hearing, Claimant was very prepared in presenting his case and as Claimant explained what the different receipts that were not allowed represented, the Departmental representative admitted that had he known what the receipt was for, the deductions would have been allowed. Therefore, this issue could have been resolved through a meaningful prehearing conference.


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 denied Claimant's redetermination without providing Claimant timely Notice of the denial.

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. Redetermine Claimant's eligibility for FAP benefits.
2. Issue a timely Notice of the eligibility determination.
3. Schedule a meaningful prehearing conference if Claimant appeals the eligibility determination.



Vicki L. Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/20/2014**

Date Mailed: **6/20/2014**

VLA/las

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:

