

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

IN THE MATTER OF:



Reg. No.: 14-002869
Issue No.: 3008; 4007
Case No.:
Hearing Date: July 1, 2014
County: Charlevoix

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 1, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included and

ISSUES

Did the Department properly calculate Claimant's FAP allotment?

Did the Department properly process Claimant's SDA application?

Does the Administrative Law Judge have jurisdiction regarding Claimant's other concerns?

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 May 9, 2014, the Department notified Claimant by letter of a FAP allotment reduction effective June 1, 2014.
2. On May 20, 2014, Claimant requested a hearing for cash assistance, FAP, and "HCV."
3. Claimant had applied for cash assistance on May 11, 2012.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Additionally, the Department's computer system known as "Bridges" uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued only if the expense could not be verified within 30 days of the application and the local office was at fault. BEM 554.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554. The Department determines the amount of monthly income from biweekly checks by averaging any biweekly check and multiplying the average biweekly check amount by 2.15. RFT 505. The Department determines the amount of monthly income from weekly checks by averaging the weekly checks and multiplying the average by 4.3.

Claimants total gross income during the relevant period was \$ [REDACTED]. The Department properly determined Claimant's monthly Adjusted Gross Income to be \$ [REDACTED]. Claimant's Standard Deduction of \$ [REDACTED] is appropriate. RFT 255.

The Excess Shelter deduction of \$ [REDACTED] properly reflected the housing cost of \$ [REDACTED] and standard utility deduction of \$ [REDACTED] minus 50% of Adjusted Gross Income. See BEM 554, 556.

RFT 260 provides that a FAP group of this size with a net income of \$ [REDACTED] would be eligible for \$ [REDACTED] per month in FAP benefits if otherwise eligible. The Department did not err in determining Claimant's monthly FAP benefits.

Regarding the SDA application, the Department was made aware that this was an issue for the hearing based on Claimant's hearing request. The Department did not prepare to address the issue and did not address it on the hearing request. The Department attempted on three different occasions to determine whether Claimant had ever been sent any notice of negative action, and it could not determine whether this occurred. Without any notice of negative action, the Department has not shown either that it properly processed the application or that the Administrative Law Judge lacks jurisdiction.

Claimant also requested a hearing regarding an HCV voucher and expressed concern about student loan bills during the hearing. The Department does not administer the housing voucher program referenced by the Department of any services regarding Claimant's obligation for student loan repayment. The Administrative Law Judge consequently is without authority to address either concern and expresses no opinion on either matter.

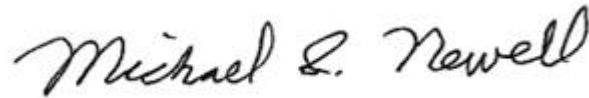
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated the FAP budget and failed to satisfy its burden of showing that it acted in accordance with Department policy when it properly processed Claimant's SDA application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP allotment and **REVERSED IN PART** with respect to the denial of Claimant's SDA application.

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. Reinstate the May 11, 2012 SDA application and redetermine eligibility.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/14/2014**

Date Mailed: **7/14/2014**

MSN/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:

