

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

IN THE MATTER OF:



Reg. No.: 14-005891
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 30, 2014
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for June 1, 2014 ongoing?

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 was an ongoing recipient of FAP benefits.
2. In connection with a June 2014 redetermination, the Department recalculated Claimant's FAP benefits.
3. On June 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for monthly FAP benefits of \$134 effective July 1, 2014 ongoing.
4. On June 27, 2014, Claimant requested a hearing disputing the Department's action and asking that her FAP benefits continue at the level prior to the negative action pending the hearing.

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, Claimant was receiving monthly FAP benefits of \$189. In connection with a redetermination, the Department recalculated Claimant's FAP budget. Claimant requested a hearing after the June 16, 2014 Notice of Case Action advised her that her monthly FAP benefits were decreasing to \$134 effective July 1, 2014.

The Department provided a net income budget showing the calculation of FAP benefits for July 1, 2014 ongoing that was reviewed with Claimant at the hearing. Claimant confirmed the income used in her FAP budget and that she was the sole member of her FAP group.

Because Claimant did not have any earned income and she was a senior/disabled/veteran (SDV) member of her FAP group, she was eligible for the following deductions to her income under Department policy:

- a standard deduction of \$151 based on her one-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account Claimant's confirmed monthly housing expenses of \$141 and the \$553 heat and utility standard, the most beneficial standard applicable to a FAP client's case (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- expenses for child care, child support, and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that she had no day care expenses and had not provided any verified out-of-pocket medical expenses exceeding \$35 to the Department. Although Claimant indicated that she had child support expenses, she acknowledged that she had not provided any verification of such expenses to the Department. Claimant was advised that if she provided verification of medical expenses in excess of \$35 and/or current and arrearage court-ordered child support she pays, she might be eligible for additional deductions and increased FAP benefits in the future.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly reduced Claimant's gross income of \$735 by the \$151 standard deduction and the \$402 excess shelter deduction, resulting in monthly net income of \$182. Based on net income of \$182 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$134. BEM 556; RFT 260 (December 2013), p. 3.

In her hearing request, Claimant asked that the Department continue to issue FAP benefits to her in the amount that she was currently receiving until the hearing was decided. At the hearing, Claimant expressed concerns because the Department had not complied with her request and issued \$189 in FAP benefits, the monthly FAP allotment she was receiving before she was notified of the decrease in her monthly FAP benefits to \$134, for July 2014.

When the Department receives a timely hearing request, which is one received within 10 days of the date the notice of case action was issued (or the following day, if the 10th day is a non-workday), the Department must continue to issue to the client the assistance authorized prior to the notice of negative action. BAM 600 (July 2014), p. 23. However, for FAP only, benefits are reinstated to the former level *only if* the benefit period has not expired. BAM 600, p. 23.

In this case, Claimant submitted to the Department a hearing request concerning the June 16, 2014 Notice of Case Action on June 27, 2014, 11 days after the Notice date. Because Claimant's hearing request was received more than 10 days from the date of the Notice of Case Action was issued, Claimant's hearing request was not timely. Furthermore, both the Department and Claimant agreed that the decrease in FAP benefits effective July 1, 2014 followed a redetermination. The June 16, 2014 Notice of Case Action shows that the \$134 in monthly FAP benefits applied for the period between July 1, 2014 and June 30, 2016, which the Department confirmed was Claimant's certification period.

Because Claimant's hearing request was not timely received by the Department and the decrease in FAP benefits resulted from the expiration of the prior benefit period, the Department acted in accordance with Department policy when it failed to reinstate FAP benefits to the prior level period pending hearing.

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 her FAP benefits for July 1, 2014 ongoing and when it did not reinstate Claimant's FAP benefit to the prior level pending that hearing.

DECISION AND ORDER

Accordingly, the Department's FAP actions are AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/5/2014**

Date Mailed: **8/6/2014**

ACE / tlf

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:

