

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 14-006633  
Issue No(s): 3001  
Case No.: ██████████  
Hearing Date: August 6, 2014  
County: SSPC East

**ADMINISTRATIVE LAW JUDGE:** Jacquelyn A. McClinton

**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 August 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly determine Claimant's eligibility for Food Assistance Program (FAP) benefits?

**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 applied for FAP benefits on June 3, 2014.
2. On June 4, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting specific documentation be returned by June 6, 2014.
3. On June 11, 2014, Claimant returned all requested documents.
4. On June 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that she had been approved for FAP benefits in the amount of \$14.00 for June 2014 and \$15.00 effective July 1, 2014, ongoing.

5. On July 11, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

### **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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. On June 3, 2014, Claimant applied online for FAP benefits. On June 4, 2014, the Department sent Claimant a VCL requesting that she submit certain documentation. Claimant submitted all requested information before the due date. After receiving the requested information, the Department sent Claimant a Notice of Case Action notifying her that she had been approved for \$14.00 in FAP benefits for June 2014 and \$15.00 effective July 1, 2014, ongoing.

The Department presented a budget in support of its determination of Claimant's eligibility for FAP benefits. The Department stated that Claimant received \$605.35 in pension income, \$299.00 in child support income and \$14.00 per month in supplemental income from the state. Further, the Department stated that Claimant's son received \$721.00 in SSI income. Accordingly, the Department determined that Claimant's total gross income was \$1639.00 per month.

The Department stated that Claimant received \$899.00 in child support payments for April 2014. The Department confirmed that Claimant did not receive any child support in May 2014 or June 2014. Accordingly, the Department divided the \$899.00 by three to determine that Claimant's monthly child support income was \$299.00. However, Claimant testified that prior to April 2014 she received no child support and since April 2014, she has not received any child support. Department policy requires that it is to use the average of child support payments received in the past three calendar months, unless changes are expected. However, amounts that are unusual and not expected to continue are not to be included. BEM 505 (July 2013), p. 3. The April 2014 child support payment was clearly unusual. Further, the Department had reason to believe that the child support payment was not expected to continue since Claimant did not receive payments in May or June 2014.

There was a portion of the Shelter Verification submitted by Claimant on June 9, 2014 that was to be completed by AFC/supported Independent Living Facility only. Claimant completed a portion of this section but left the information regarding heating and cooling costs blank. Claimant's failure to check any heating and cooling costs should not have been considered in determining her eligibility as this section did not apply to Claimant. Further, on the Shelter Verification, there is a portion that asked Claimant to check items that was included in her rent. The choices were heating/cooling, electric, water/sewer, cooking fuel, trash removal, telephone and/or none. Claimant selected none. This should have alerted the Department that Claimant may have been responsible for some or all of these expenses. Claimant testified that she pays heating and electric cost and that she has documentation to support the payments. Claimant's heating and utility costs were not included in determining her eligibility.

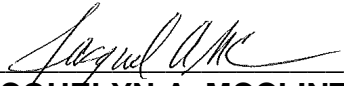
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it included an unusual child support payment in determining Claimant's eligibility for FAP benefits effective June 3, 2014, ongoing. Further, it is found that Claimant was eligible for a heat and utility standard that she did not receive.

### **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. Recalculate Claimant's eligibility for FAP benefits effective June 3, 2014, ongoing which is not to include the April 2014 child support but is to include consideration of payment of utility costs if proof of payment is provided;
2. Issue any supplements Claimant was eligible to receive but did not effective June 3, 2014; and
3. Notify Claimant in writing of its decision.

  
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**JACQUELYN A. MCCLINTON**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 13, 2014

Date Mailed: August 13, 2014

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JAM/cl

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]