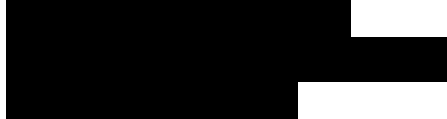


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-006768
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 7, 2014
County: Wayne-District 15

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 August 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for July 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 New Hire Client Notice sent to him on March 26, 2014, Claimant submitted paystubs for checks dated March 6, 2014; March 13, 2014; March 20, 2014; and March 27, 2014 to the Department.
3. The Department recalculated Claimant's FAP budget to include his new employment income.
4. On May 22, 2014, the Department sent Claimant a Notice of Case Action notifying him that his monthly FAP benefits were decreasing to \$134 effective July 1, 2014.

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.

Claimant requested a hearing after his monthly FAP benefits decreased from \$189 to \$134 effective July 1, 2014. The Department did not provide a copy of the FAP net income budget into evidence. Therefore, the FAP budget information shown on the May 22, 2014 Notice of Case Action was reviewed with Claimant at the hearing.

The budget showed gross monthly earned income of \$948. The Department testified that this income was based on the gross weekly income he received as shown on the four paystubs he provided: (i) \$106.65 on March 6, 2014; (ii) \$233.50 on March 13, 2014, (iii) \$276.60 on March 20, 2014; and (iv) \$255.30 on March 27, 2014. Claimant's average weekly pay received on the dates considered, multiplied by 4.3 in accordance with Department policy, results in gross monthly earned income of \$937, less than the gross monthly income indicated on the Notice. See BEM 505 (July 2014), pp. 7-8. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's gross monthly income.

Because Claimant had earned income but was not a senior/disabled/veteran (SDV) member of his FAP group, he was eligible for the following deductions to his income under Department policy:

- an earned income deduction equal to 20% of his gross monthly earned income (BEM 556 (July 2013), p. 3);
- a standard deduction of \$151 based on his one-person group size (RFT 255 (December 2013), p. 1; BEM 556, p. 4);
- an excess shelter deduction, which takes into account Claimant's housing expenses and the heat and utility standard (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- expenses for child care and child support (BEM 554, p. 1).

The Notice shows that Claimant received the applicable standard deduction. The \$553 heat/utility standard is the most beneficial utility deduction available to Claimant. Claimant confirmed that he had no day care or housing expenses. The Notice shows that Claimant received a \$115.87 deduction for child support expenses. The evidence showed that \$24.82 was being garnished from Claimant's weekly wages. The calculation of this weekly expense should be multiplied by 4.3 to determine the monthly expense. BEM 554, pp 3-4. Based on weekly child support of \$24.82, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's monthly child support expense.

Because the Department did not properly calculate Claimant's gross monthly earned income and child support expense, 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 Department policy when it calculated Claimant's FAP benefits for July 1, 2014 ongoing.

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 FAP benefits for July 1, 2014 ongoing;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from July 1, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **8/12/2014**

Date Mailed: **8/12/2014**

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:

