

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

**IN THE MATTER OF:**

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████████████████████  
████████████████████

Reg. No.: 14-006906  
Issue No.: 3003  
Case No.: ██████████  
Hearing Date: September 10, 2014  
County: Macomb (36-Sterling Hts)

**ADMINISTRATIVE LAW JUDGE:** Jonathan W. Owens

**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 September 10, 2014, from Sterling Heights, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████  
██████████

**ISSUE**

Did the Department properly determine the Claimant has excess income 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. On June 6, 2014, Claimant submitted a redetermination (DHS-1010) and verifications.
2. On June 23, 2014, the Department issued a notice of case action indicating Claimant's case was closing due to excess income.
3. On July 2, 2014, Claimant requested a hearing.
4. The Department did not properly hold a prehearing conference.

## **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.

In the instant case, on June 6, 2014, Claimant returned her completed redetermination paperwork to the Department. Claimant noted she received RSDI income in the amount of \$1,828.90 a month and a new retirement pension started in March 2014 in the amount of \$1,212.24 a month. She noted she pays \$104.90 in Medicare premiums a month. Further, she noted she spends \$0.64 cents on vision and \$4.37 a month on dental. She reported no changes in household expenses. She noted she was attending a university full time. On June 23, 2014, the Department completed a new budget for FAP benefits and issued a notice of case action indicating that Claimant had excess income and her FAP benefits would cease beginning July 1, 2014.

The Department budget as presented indicated a gross monthly income of \$3,041. The Department removed the standard deduction of \$151 along with a medical deduction of \$75. This resulted in an adjusted gross income of \$2,815. The Department determined that Claimant had a housing expense of \$1,475.49. The Department utilized the heat and utility standard of \$553. This resulted in shelter costs in the amount of \$2,028 a month. The Department removed \$1,407 to account for 50% of the adjusted gross income from this total, which revealed the adjusted excess shelter amount of \$621.

Claimant first asserted she had filed a timely appeal of the Department's case action to close her FAP benefits. Therefore, Claimant asserted her FAP benefits should have been reinstated. The Department acknowledged that Claimant's benefits were not reinstated even though Claimant had filed a hearing request in a timely manner. The Department, however, cited policy found in BAM 600 regarding timely hearing requests as the basis for not reinstating Claimant's FAP benefits.

Per BAM 600 (March 2014), p. 23, a timely hearing request is a request received by the Department within 10 days of the date the notice of case action was issued. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, the Department is to reinstate program benefits to the former level for a hearing

request filed because of a negative action. **For FAP only, these actions apply only if the benefit period has not expired.**

As indicated by the above-cited policy, the Department properly determined that Claimant's FAP benefits were not eligible for reinstatement. Claimant's benefit period was expiring and the case action taken was part of a redetermination of an expired benefit period.

Claimant then asserted the Department failed to give her proper notice regarding the closing of her FAP benefits. Claimant asserted the Department's action was premature and should have been implemented, at the earliest, the following benefit period in August and not implemented in less than 10 days from the notice of case action.

After reviewing the Department policy regarding notice requirements found in BAM 220 (January 2014), pp. 1-2, this Administrative Law Judge found that, upon certification of eligibility results, all programs require that Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center. The policy indicates that, for case action requiring adequate notice, a written notice is sent to the client at the same time an action takes effect (not pending).

Adequate notice is given in the following circumstances:

#### **All Programs**

- Approval/denial of an application.
- Increase in benefits.

The policy continues in BAM 220 (January 2014), p. 4, to specify for **FAP Only**, Adequate Notice can be applied to a negative action resulting from information reported in writing and signed by an eligible group member, **and** the new benefit level or ineligibility can be determined based **solely** on this written information.

BAM 220 (January 2014), pp. 4-5, describes **Timely Notice** for all programs as notice given for a **negative action** unless policy specifies adequate notice or no notice. See Adequate Notice and, for CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action.

BAM 220 (January 2014), pp. 4-5, describes **Actions Not Requiring Notice**. For FAP only, a notice of case action is **not** sent when the FAP certification period has expired. BAM 220 (January 2014), p. 11, further indicates that, for FAP only, reducing a FAP group's benefits at redetermination is treated as a **positive action** because the change affects the new certification, **not** the current benefit period.

This Administrative Law Judge finds based upon the above that Claimant's benefits were appropriately ended at the expiration of her benefit period as opposed to being pended until a notice of case action could be sent. Further, the resulting new determination indicating Claimant was not eligible for FAP benefits for a new certification period would be appropriately treated as a positive action per the above policy.

Claimant then asserted she had medical expenses that were not being calculated into her monthly benefit. Claimant, as noted above, indicated she spent \$104.90 in Medicare premiums a month. Further, she noted she spends \$0.64 cents on vision and \$4.37 a month on dental. These amounts were reported at the time of redetermination.


BEM 554 (May 2014), p. 1, indicates the Department that, for FAP benefits for groups with one or more SDV member, the Department can use expenses such as dependent care expense, excess shelter, court-ordered child support and arrearages paid to non-household members, and medical expenses for the SDV member(s) that exceed \$35. The Department presented a copy of the budget details indicating the reported expenses were considered and entered into Claimant's budget. Claimant was given credit for the expenses she reported at redetermination. Claimant reported she had informed the Department of other ongoing medical expenses she had in July 2014 after the Department had completed her redetermination.

This Administrative Law Judge finds the Department appropriately utilized the expenses and income reported by Claimant at the time of her redetermination. Claimant's subsequent reporting of additional expenses following the completion of the redetermination cannot be considered, as the Department was not informed of these expenses prior to the redetermination being completed.

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 closed Claimant's FAP case due to excess income.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

  
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**Jonathan W. Owens**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **9/22/2014**

Date Mailed: **9/23/2014**

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**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:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]