

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 14-008821
Issue No(s): 3001
Case No.: [REDACTED]
Hearing Date: September 8, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 September 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly process Claimant's 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 was an ongoing recipient of FAP benefits.
2. Claimant's FAP case closed effective May 1, 2014. (Exhibit 1)
3. In July 2014, Claimant submitted a new application for FAP benefits.
4. Claimant was approved for FAP benefits in the amount of \$221 for August 2014. (Exhibits 1 and 3)
5. On July 31, 2014, Claimant submitted a hearing request disputing the Department's actions with respect to his FAP benefits.

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 disputing the Department's closure of his FAP case effective June 1, 2014, stating that he never received notice of the case closure. BAM 220 provides that the Department is required to send clients timely notice of a negative action, such as a termination of benefits. BAM 220 (January 2014), pp.1-5. A timely notice is mailed at least 11 days before the intended negative action takes effect and the action is pended to provide the client with a chance to react to the proposed action. BAM 220, p.4. At the hearing, the Department testified that Claimant's FAP case closed because his income exceeded the limit for FAP purposes. The Department confirmed that a Notice of Case Action was not sent to Claimant informing him of the case closure or the reason for intended action. Additionally, the Department failed to present any evidence that Claimant had excess income for FAP purposes, thereby making him ineligible to receive FAP benefits.

Therefore, the Department failed to satisfy its burden in establishing that it acted in accordance with Department policy when it closed Claimant's FAP case, effective June 1, 2014.

Claimant requested a hearing disputing the Department's failure to properly process his FAP application. Claimant stated that he submitted an application for FAP benefits in July 2014, and that he was never notified whether the application was approved or denied. Claimant testified that he checked the balance on his FAP card and found out that he had received FAP benefits in July 2014.

When the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110 (July 2014), pp.1-6,.18. The Department is to certify program approval or denial of the application within the appropriate standard of promptness and, upon certification of eligibility results, the Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action. After processing an initial application, the Department will notify clients and the representative of the approval or denial. BAM 115 (July 2014), pp. 1, 6,23;BAM 220 (July 2014), p. 1.

At the hearing, the Department testified that Claimant's application was registered, processed and that he was approved for FAP benefits effective July 3, 2014. (Exhibits 1 and 2). Although the Department confirmed that it did not send Claimant a Notice of Case Action informing him of the approval of the application, the Department presented documentary evidence that Claimant was approved for and received FAP benefits beginning July 3, 2014. Therefore, the Department's failure to send Claimant a Notice of Case Action informing him of the approval was harmless.

Claimant raised additional concerns regarding the amount of his FAP benefits. In calculating a client's FAP benefits, all countable gross earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. The Department will use income from the past 60 or 90 days for fluctuating or irregular income if: the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6.

A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 7-8. The Department is to also apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

At the hearing, the FAP EDG Net Income Results Budget for the August 2014 benefit period was reviewed. (Exhibit 3). The Department concluded that Claimant's group had earned income of \$3636 which came from Claimant's. Specifically, the Department stated that it relied on information from the Work Number and considered (i) \$875 paid on August 1, 2014; (ii) \$236.80 paid on August 8, 2014; and (iii) \$786.40 paid on August 15, 2014. (Exhibit 4). After further review and applying the prospective budgeting policy referenced above, Claimant's gross monthly income does not total \$3636, as calculated by the Department. Additionally, it remained unexplained by the Department how or why income received in August 2014 was considered in the calculation of Claimant's August 2014 FAP benefits.

The budget shows that the Department properly applied the \$218 standard deduction applicable to Claimant's confirmed group size of six and the Department testified that \$553.00 standard heat and utility deduction available to all FAP recipients was also properly applied. RFT 255 (December 2013), p 1; BEM 554 (May 2014), pp. 12-15. The

Department considered Claimant's housing costs of \$1219, which Claimant confirmed were correct.

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 because of the errors in the calculation of Claimant's earned income, the Department did not act in accordance with Department policy when it determined that Claimant was eligible to receive FAP benefits in the amount of \$221 monthly, effective August 1, 2014.

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. Reinstate Claimant's FAP case effective June 1, 2014;
2. Issue FAP supplements to Claimant from June 1, 2014, to the July 2014, application date in the amount Claimant received prior to the case closure;
3. Recalculate Claimant's FAP budget from the date of application, ongoing;
4. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from the date of application, ongoing; and
5. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2014

Date Mailed: September 12, 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

ZB/tlf

cc:

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