

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

IN THE MATTER OF:

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

Reg. No.: 14-010196
Issue No.: 3001
Case No.: ██████████
Hearing Date: September 24, 2014
County: MACOMB (20)

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 September 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's husband. Participants on behalf of the Department of Human Services (Department) included ██████████.

ISSUE

Did the Department properly determine Claimant's eligibility for Food Assistance Program (FAP) benefits for June, July and August 2014?

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 20, 2014.
2. Claimant received \$18.00 in June and July 2014.
3. In approximately July 2014, the Department received Claimant's husband's paystubs for the month of July 2014.
4. On August 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits had increased to \$341 per month.
5. On August 19, 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. The Claimant requested a hearing disputing the amount of FAP benefits received in June, July, and August 2014. Claimant testified that she did not have a dispute with her current FAP benefits in the amount of \$341 per month.

Claimant testified that the group which consists of herself and her husband, received \$18 per month in July and August 2014. It is unclear how much the group received in June 2014 as it would have likely been a prorated amount based on the application date of June 20, 2014. At the time of the hearing, the Department was experiencing technical issues and as such, it was unable to provide the budget used in calculating benefits for the relevant months. The Department was unable to definitively state what income was used in determining eligibility for FAP benefits.

The Department testified that Claimant's file contained her husband's June 2014 paystubs. The income was as follows: June 6, 2014 - \$1,087.04; June 13, 2014 – \$1,440.85; June 20, 2014 - \$996.85; and June 27, 201 - \$887.35. Claimant's husband testified that his income fluctuates and that the June 13, 2014 pay was an unusual payment. Department policy requires the use of income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, (July 2013), p. 5. However, the Department is required to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.* The Department can also 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.

The Department provided IRS information regarding Claimant's prior earnings based upon information received from the IRS. Claimant stated that the income over the past 90 days also included fluctuations and therefore would not accurately reflect the income he is now expected to receive. The Department testified that according to records received

from the IRS, Claimant earned \$14,239.95 in the 3rd Quarter of 2013; \$18,803.78 in the 4th Quarter of 2013; \$11,230.80 in the 1st Quarter of 2014; and \$13,180.63 in 2nd Quarter of 2014. Claimant further stated that he was previously paid as a supervisor and is no longer paid at that rate. Therefore, it appears that the Department should have discarded the June 13, 2014 pay when calculating eligibility for benefits. Further, at the time of application, Claimant was not working. It is unclear if the Department used Claimant's previous earned income in determining benefits. Because the Department was unable to provide a budget for the relevant time period and was unable to state which pay it used in determining eligibility, it is found that the Department failed to establish that it properly calculated Claimant's FAP benefits for June, July and August 2014.

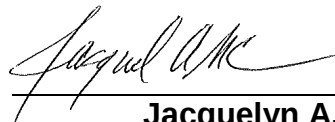
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it determined Claimant's eligibility for FAP benefits in June, July and August 2014.

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. Redetermine Claimant's eligibility for FAP benefits for June 2014, July 2014, and August 2014, discarding any unusual income;
2. Issue FAP supplements to Claimant for June 2014, July 2014, and August 2014 following the redetermination of eligibility; and
3. Notify Claimant in writing of its decision regarding FAP benefits for June 2014, July 2014, and August 2014 by sending a Notice of Case Action.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/3/2014**
Date Mailed: **10/3/2014**

JAM / cl

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]
[REDACTED]