

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-011500
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 8, 2014
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 October 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Supervisor; and ██████████ Assistant Payment Worker.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment?

Did the Department properly process Claimant's reported change that her daughter's employment had ended?

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 December 23, 2011, Claimant's daughter's employment had ended. See Exhibit 1, p. 1.
2. On August 4, 2014, Claimant submitted a redetermination. See Exhibit 1, pp. 4-9.
3. On August 20, 2014, the Department conducted a redetermination telephone interview with the Claimant and she reported that the FAP budget was improper. See Exhibit 1, p. 1.

4. On August 29, 2014, the Department received verification that Claimant's daughter's employment had ended on December 23, 2011. See Exhibit 1, p. 1.
5. On August 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$783 effective September 1, 2014, ongoing. See Exhibit 1, pp. 42-47.
6. On September 8, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 2-3.

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.

Preliminary matter

A review of Claimant's hearing request discovered that she possibly notated a dispute with her Family Independence Program (FIP) benefits. See Exhibit 1, p. 3. However, Claimant testified that she is only disputing her FAP benefits. As such, this Administrative Law Judge (ALJ) will only address Claimant's FAP benefits.

FAP budget

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2014) p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9. Income reporting requirements are limited to the following:

- Earned income:
- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 9.

The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6. For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505 (July 2014), p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7.

In this case, on August 4, 2014, Claimant submitted a redetermination. See Exhibit 1, pp. 4-9. On August 20, 2014, the Department conducted a redetermination telephone interview with the Claimant and she reported that the FAP budget was improper. See Exhibit 1, p. 1. On or around August to September 2014, Claimant alleged that she notified the Department that her daughter's employment had ended back in 2011. See Exhibit 1, p. 1. On August 29, 2014, the Department received verification that Claimant's daughter's employment had ended on December 23, 2011. See Exhibit 1, p. 1. The Department testified that this was the only verification it received of the daughter's employment ending. On August 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved in the amount of \$783 effective September 1, 2014, ongoing. See Exhibit 1, pp. 42-47.

Additionally, the Department testified that it has always budgeted the daughter's income until the verification was received in August 2014. The Department testified that the daughter's income was removed from the FAP budget effective October 1, 2014, in which the benefits increased to \$809. See Exhibit 1, p. 37.

As a result of receiving the Notice of Case Action dated August 29, 2014, Claimant testified that she requested a hearing in order to seek supplemental benefits. Claimant testified that she notified the Department that her daughter's employment ended in a Semi-Annual Contact Report (contact report) dated January 3, 2012. See Exhibit A, pp. 1-2. Claimant testified that she mailed and faxed to the Department the contact report sometime from January 3, 2012, to January 11, 2012. A review of the contact report indicated that Claimant reported her daughter's employment ending on December 23, 2011 and that proof was sent. See Exhibit A, pp. 1-2. Claimant also indicated in the contact report that her daughter had moved. However, during the hearing, Claimant testified that she was only disputing that the Department failed to remove the daughter's income from the FAP budget because it had ended. The Department testified that it did not receive this reported change. Claimant also testified that this was the first time she reported her daughter's employment had ended, even though she indicated proof was sent in the contact report.

Supplemental Food Assistance benefit issuances (supplements) must be issued:

- When the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or
 - For periods when the group was eligible but received no regular benefits.
- BAM 406 (July 2013), p. 1.

These supplements are limited to underissuances in the twelve months before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss. The group initiated court action to obtain lost benefits.

BAM 406, p. 3.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's FAP benefits in accordance with Department policy.

On or around January 11, 2012, Claimant provided credible evidence that she notified the Department that her daughter's income had ended on December 23, 2011. See Exhibit A, pp. 1-2. The evidence established that the Department failed to act on the reported change when Claimant submitted the contact report. See Exhibit A, pp. 1-2. However, BAM 406 limits the time period in which Claimant can receive a FAP supplement. FAP supplements are limited to underissuances in the twelve months before the month in which the earliest of the following occurred, which in this case would be when the local office received a request for lost benefits from the eligible group. BAM 406, p. 3.

Based on the above information, the local office received a request for lost benefits from the eligible group (i.e., Claimant) on September 8, 2014. See Exhibit 1, pp. 2-3. As such, Claimant is eligible for a FAP supplement for the time period of September 2013 to August 2014 (twelve months before the month in which the office receives the request for lost benefits). See BAM 406, p. 3. Moreover, the evidence indicated that the Department budgeted the daughter's income for September 2014. Thus, the Department will also recalculate Claimant's FAP benefits for September 2014 because it failed to remove the daughter's income for this benefit month. See Exhibit A, pp. 1-2 and BAM 105, p. 9 and BAM 220, p. 6.

Additionally, a review of Claimant's Eligibility Summary discovered that the group size was four for the benefit period of September 2013 to November 2013. See Exhibit 1, p. 36. Then, the FAP group size increased to six from December 2013, ongoing. See Exhibit 1, pp. 36-37. As stated above, Claimant actually reported that her daughter moved when she submitted the contact report on or around January 11, 2012. See Exhibit A, pp. 1-2. The Department testified that it continuously budgeted the daughter's income. However, Claimant's Eligibility Summary found it unclear if the daughter was included in the FAP group composition for September 2013 to November 2013 due to the decrease in group size and if her income was budgeted as well. Nevertheless, the Department will remove the daughter's income from the FAP budget and issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2013, ongoing.


DECISION AND ORDER

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 improperly calculated Claimant's FAP benefits effective September 1, 2013, ongoing.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget and remove Claimant's daughter's income from the FAP budget effective September 1, 2013, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2013, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/13/2014**

Date Mailed: **10/13/2014**

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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]
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