

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016990
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 8, 2015
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 January 8, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] Eligibility Specialist [REDACTED], and Assistance Payments Supervisor [REDACTED].

ISSUE

Did the Department properly determine 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 on-going FAP recipient.
2. Claimant changed her residence as of October 31, 2014, and her rent increased.
3. Claimant notified the Department that her rent would be increasing, and on October 24, 2014, the Department mailed to her a Verification Checklist.
4. The Department received verification of the lease terms on November 7, 2014.
5. On November 13, 2014, the Department mailed to Claimant a Benefit Notice (Exhibit 1 Pages 32-33) informing her that her FAP would increase to \$ [REDACTED] beginning December 1, 2014.

6. Claimant believes the increase in FAP should have been effective November 1, 2014 since that was when her rent increased, and she takes issue with her caseworker's delay in responding to her telephone calls.
7. The Department received Claimant's hearing request on November 25, 2014.

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.

The policy governing benefit increases resulting from reported changes in the FAP program are found in BAM 220 (10/1/14) at page 6:

Benefit Increases: 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. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned.

Examples are provided in BAM 220 at page 7.

Example: Rich reports on March 23rd that he now has a shelter expense. Act on the change by April 2nd. May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Affect the April issuance if the action can be completed by March 31st.

If verification is required or deemed necessary, allow the household 10 days from the date the change is reported to provide the verification. The change must still affect the correct issuance month. For example, the first benefit month occurring 10 days after the date the change was reported.

Example: Rich reports a shelter change on March 21st. However, verification of his new shelter obligation is requested late on March 23rd. Rich provides the verification on April 2nd. Make the change to affect April's benefits by using a supplemental issuance.

If verification is required or deemed necessary but the client fails to return the verification within 10 days after the change was reported, but does provide the verification at a later date, act on the change within 10 days after the verification is provided.

Example: Using the previous example, Rich does not supply the shelter verification until April 6th. Act on the change by April 16th to affect May's benefits. No supplement is issued for April, due to Rich's failure to return the verification within 10 days.

Claimant reported her change to the Department by October 24, 2014. The Department requested verification on October 24, 2014, with a due date of November 3, 2014. Claimant testified that she had left many messages for her caseworker that were not returned. She denied receiving the VCL which was mailed to her new address. The lease for that new address is dated October 30, 2014. Claimant was being proactive in providing the Department with notice of her new housing arrangement before it even occurred. It is believable that she did not receive the VCL since it was mailed to her new address a week before she moved to the new address. Drawing from the examples above, the Department had 10 days to act on her change, after receiving verification. Because she (a) did not report the change until October 24; (b) did not sign the lease until October 30, 2014, and (c) did not provide a copy of the lease until November 7, the Department had until November 3, 2014, to act on the change. The first benefit month occurring after November 3, 2014 was December 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 acted in accordance with Department policy when it increased Claimant's FAP beginning December 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/9/2015**

Date Mailed: **1/9/2015**

DJ/las

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 48909-8139

cc:

