

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017064
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 08, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 the Claimant included [REDACTED] and her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED].

ISSUE

Did the Department properly take action to reduce the Claimant's monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a monthly recipient of FAP benefits in the amount of \$ [REDACTED]
2. In October 2014, the Claimant returned to the Department a redetermination form along with proof of income. The Claimant reported an income increase which began in March 2014, but was never reported until October 2014.
3. On November 5, 2014, the Department sent the Claimant a DHS-1605, Notice of Case Action, informing the Claimant that her monthly FAP allotment was reduced to \$ [REDACTED]
4. On November 17, 2014, the Department received the Claimant's hearing request protesting the reduction in her monthly FAP allotment.

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.

In this case, the Claimant and her husband testified that their worker informed them that no further receipts were required of them besides what the Claimant had already submitted. This testimony was not refuted by anyone with personal knowledge of the conversation between the Claimant and her worker, as her worker was not present at the hearing. The Claimant testified that she and her husband were unaware that they were required to submit actual receipts of business expenses to be eligible for more than just the standard 25% deduction in self-employment income.

Additionally, Bridges Eligibility Manual (BEM) 502 (2014) p. 3, provides that allowable expenses are the higher of either 25% of the total proceeds, or actual expenses if the Claimant chooses to claim and verify those expenses. Upon being made aware of the choice, the Claimant apparently chooses to claim and verify those expenses. During the hearing, the Department testified that the Claimant brought receipts with her to the hearing and that before the hearing the receipts were calculated and did not equal as much as the 25% deduction. Yet, the fact remains that this comparison was not done in previous months because the Claimant did also not report an increase in income timely.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to reduce the Claimant's monthly FAP allotment.

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 the Claimant's eligibility for FAP back to November 1, 2014, and

2. Issue the Claimant any supplements she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/12/2015**

Date Mailed: **1/12/2015**

SEH/hj

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:

