

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

IN THE MATTER OF:



Reg. No.: 14-019069
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: February 03, 2015
County: WASHTENAW (DISTRICT 20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 3, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly 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. Claimant is an ongoing FAP recipient.
2. On December 1, 2014, a Mid-Certification Contact Notice was issued to Claimant with a due date of January 1, 2015.
3. On December 6, 2014, the yearly Cost of Living Adjustment (COLA) from the Social Security Administration (SSA) was batch entered in the Department's computer system.
4. Claimant's FAP was re-calculated with the income change.
5. On December 6, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective January 1, 2015.

6. On December 11, 2014, Claimant requested a hearing contesting the Department's actions.
7. On December 11, 2014, Claimant reported a rent increase.
8. On December 16, 2014, A Shelter Verification form was issued to Claimant with a due date of December 26, 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.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105 (10-1-2014) p. 7.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (10-1-2014) pp. 1-6.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550 (2-1-2014), p.1. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security income (SSI) and Retirement Survivors and Disability Insurance (RSDI) benefits are counted as unearned income. BEM 503 (7-1-2014) pp. 28 and 32. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (10-1-2014) p. 12. Heat and utility expenses can also be included as allowed by policy. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility (h/u) standard. The Department now includes only the utilities for which a client is responsible to pay. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments

must use the h/u standard. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-20.

Claimant was concerned that she received the Mid-Certification Contact Notice and December 6, 2014, Notice of Case Action on the same date. As discussed during the hearing proceedings, this was a coincidence. Claimant's testimony indicated she now had a better understanding that some forms/letters are sent from Lansing and others are sent from the local Department office. In this instance, it appears that the Mid-Certification Contact Notice was system generated and sent from central printing in Lansing.

There has been no case action related to providing verifications for the time period at issue for this hearing. Therefore, the remainder of this analysis will focus on the calculation of Claimant's FAP monthly allotment.

On December 6, 2014, the yearly Cost of Living Adjustment (COLA) from the Social Security Administration (SSA) was batch entered in the Department's computer system. Accordingly, the Department re-calculated Claimant's FAP budget to reflect the income change. On December 6, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$147 effective January 1, 2015.

The FAP budget the December 6, 2014, a Notice of Case Action was based on was reviewed with Claimant during the hearing proceedings. Claimant initially contested the budgeted SSA income, but then stated she understood after looking at a SOLQ report that verified the SSA income was correctly budgeted. Claimant's testimony regarding the budgeted medical expenses was somewhat inconsistent. It appears that if anything Claimant has been budgeted more in medical expenses than she actually has. The standard deduction and full h/u standard were included in Claimant's FAP budget.

Lastly, Claimant contested the rent budgeted for her housing expense. However, Claimant testified she reported the rent change to the Department on December 11, 2014. This report of a change was too recent to be included in the FAP budget that resulted in the December 6, 2014, a Notice of Case Action. Further, the Department has established that they promptly requested verification(s) of the rent increase so that it can be considered for determining Claimant's ongoing FAP benefits.

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 determined Claimant's FAP monthly allotment.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/10/2015**

Date Mailed: **2/10/2015**

CL/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:

