

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-11145
Issue No(s): 3008
Case No.: ██████████
Hearing Date: December 5, 2013
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process 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 ongoing recipient of FAP benefits.
2. Claimant was not in agreement with the calculation of her FAP benefits and the Department's removal of one of her children from the FAP group for the month of October 2013.
3. On October 31, 2013, Claimant submitted a hearing request 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Claimant requested a hearing to dispute the amount of FAP benefits she has received and indicated that each month, her benefits are reduced. Claimant also raised concerns regarding the Department's removal of one of her children from the FAP group for the month of [REDACTED]. At the hearing, the eligibility summary was reviewed. (Exhibit 2). According to the eligibility summary, [REDACTED], Claimant was approved for [REDACTED] in FAP benefits for a group size of four; for October 2013, her FAP benefits were reduced to [REDACTED] for a group size of three; and for November 2013, her FAP benefits were reduced again to [REDACTED] and her FAP group increased to four. (Exhibit 2). The Department sent Claimant a Notice of Case Action approving her for [REDACTED] in FAP benefits for [REDACTED] on November 4, 2013, after the date of Claimant's October 31, 2013, request for hearing. Therefore, the hearing proceeded with respect to the decrease in Claimant's benefits for October 2013 and November 2013. Claimant was informed that should she dispute the calculation of her December 2013, FAP benefits, she was entitled to request a hearing and have that issue resolved.

At the hearing, the Department provided testimony regarding the information relied on in calculating Claimant's FAP benefits for October 2013 and November 2013. The FAP FAP EDG Net Income Results Budgets were reviewed on the record and subsequently provided after the hearing. (Exhibit 3).

October 2013 FAP Benefits

The Department testified that it determined that Claimant's two sons had earned income from their employment and that the Department considered two weekly pay stubs of \$75 each to determine that Claimant's group had earned income of \$161.25. After further review of the budget, it appears that for the October 2013 benefit period, the Department did not consider any earned income, as the earned income amount on the October 2013 budget is \$0. (Exhibit 3). The Department further testified that in calculating Claimant's unearned income for October 2013, it considered (i) \$710 from SSI for Claimant's daughter; (ii) \$14 in monthly SSP for Claimant's daughter; and (iii) \$270 in SSI for one of Claimant's sons. According to the October 2013 FAP budget however, the Department determined that Claimant had unearned income totaling \$724. (Exhibit 3). Additionally, the Department was unable to provide sufficient evidence as to

why Claimant's FAP group size was reduced to three for the month of October 2013 and why Claimant's son was removed as a group member.

Therefore, because of the errors in the calculation of Claimant's earned and unearned income and the Department's inability to explain the reduced FAP group size, the Department has failed to satisfy its burden in establishing that it properly calculated Claimant's FAP benefits for October 2013. See BEM 505 (July 2013), pp. 1-14; BEM 556 (July 2013), pp. 1-7.

November 2013 FAP Benefits

The Department testified that it determined that Claimant's group had earned income of [REDACTED] for November 2013. The Department was unable to explain how this amount was reached or what amounts were relied on in making the calculation, however. Additionally, the Department determined that Claimant's group had unearned income totaling [REDACTED] and that (i) [REDACTED] from SSI for Claimant's daughter; (ii) [REDACTED] monthly SSP for Claimant's daughter; and (iii) [REDACTED] for one of Claimant's sons were considered. The gross unearned income from the amounts relied on by the Department does not total [REDACTED] this discrepancy was not explained by the Department at the hearing.

Therefore, because of the errors in the calculation of Claimant's earned and unearned income, the Department has failed to satisfy its burden in establishing that it properly calculated Claimant's FAP benefits for November 2013. See BEM 505 (July 2013), pp. 1-14; BEM 556 (July 2013), pp. 1-7.

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 calculated Claimant's FAP benefits for October 2013 and November 2013.

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. Recalculate Claimant's FAP budgets for October 2013 and November 2013, including Claimant's son as a qualified group member for October 2013; and

2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from October 1, 2013, through November 30, 2013.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 9, 2013

Date Mailed: December 10, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

ZB/tm

cc:

