

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2014-11227
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 5, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 ██████████
██████████

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for November 1, 2013, ongoing?

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. In connection with a redetermination, Claimant's FAP benefits were recalculated.
3. Although the Department initially notified Claimant that his FAP benefits were reduced to \$29 monthly for November 1, 2013, ongoing, the Department recalculated his FAP benefits and sent him an October 23, 2013, Notice of Case Action notifying him that his FAP benefits were increased to \$50 effective November 1, 2013, ongoing.

4. On October 29, 2019, 2013, Claimant filed a request for hearing disputing the calculation of his FAP benefits.

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.

Benefits Pending Hearing

At the hearing, Claimant contended that the Department had failed to continue his FAP benefits at \$200 pending his hearing even though he had filed a timely hearing request. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request for hearing was filed timely. BAM 600 (July 2013), p. 21. A hearing is timely filed if the request is received anywhere in the Department within 11 days of the effective date of the negative action. BAM 600, p. 18. However, clients are **not** eligible for continued benefits if the case involves FAP and the benefit period has expired. BAM 600, p. 21.

In this case, Claimant's request for hearing was timely filed within eleven days of the Notice of Case Action notifying Claimant of his reduced FAP benefits. However, Claimant's FAP benefits were recalculated in connection with a redetermination and the new benefit amount was for a new benefit period running from November 1, 2013, to October 31, 2014. Accordingly, Claimant was not eligible for ongoing FAP benefits at the prior level pending the hearing. Thus, the Department acted in accordance with Department policy when it failed to continue issuing FAP benefits to Claimant at the prior level pending the hearing and issued the recalculated FAP benefits following the redetermination.

FAP Calculation

In his hearing request disputing the calculation of his FAP benefits, Claimant specified that deductions were incorrect and that he was no longer employed as of October 20, 2013.

(i) Consideration of Income

The FAP budget showed that the Department considered gross monthly income of \$1,094 based on verifications provided by Claimant in connection with his redetermination. However, Claimant testified that his employment had ended and he notified the Department when he filed his hearing request that he was no longer

employed as of October 20, 2013. Changes that result in a benefits increase must be verified. BEM 505, p. 13. For FAP, income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (July 2013), p. 10. If verification is required, the Department must allow the household ten days from the date the change is reported or the date verification is requested to provide verification, but the change must still affect the correct issuance month. BEM 505, p. 10.

At the hearing, the Department testified that a Verification of Employment (VOE) form was sent to Claimant's employer on October 30, 2013, requesting that the employer complete the form, including any pay to Claimant in October 2013. The Department testified that the form was completed by the employer and faxed back to the Department worker at the Warren District office on October 30, 2013. The form identified Claimant's employment as permanent and ongoing. Based on this information, the Department acted in accordance with Department policy when it continued to budget employment income in calculating Claimant's FAP benefits.

Claimant contended that he had provided a letter from the same employer to his worker at the Warren District showing that his employment had ended and expressed frustration that he was providing information to the Warren office, his local office based on his new address, but the Pontiac office, the office that processed his redetermination, continued to process his FAP budget and was not receiving the information he provided to the Warren office. Claimant was given the opportunity to fax the document from his employer to be admitted into evidence and considered in connection with this Hearing Decision but no response was timely received. It is possible, based on the Department's testimony that \$200 in monthly FAP benefits would be issued to Claimant for December 2013, that the Warren District processed a change in income based on a verification of end of employment it received. However, because the VOE showed that Claimant's employment continued, the Department properly considered ongoing employment income for Claimant when it calculated his FAP benefits in connection with his redetermination.

(ii) Expenses

In his hearing request, Claimant contended that the Department did not properly consider his deductions. At the hearing, the two deductions at issue were those for child support expenses and shelter expenses.

In calculating a client's FAP budget, the Department must consider the amount of court-ordered support and arrearages paid by the household members to non-household members in the benefit month. BEM 554 (July 2013), p. 6. All expenses are converted to a nonfluctuating monthly amount. BEM 554, p. 3. The Department must verify child support expenses at redetermination. BEM 554, p. 6.

Although the Department did not include a child support deduction in the initial calculation of Claimant's FAP benefits in connection with the redetermination, in

recalculating Claimant's FAP budget, the Department concluded that Claimant was eligible for a child support deduction of \$47.81. In calculating Claimant's child support expenses, the Department ran a consolidated inquiry showing that Claimant did not pay child support for the months of July 2013 and August 2013 and paid \$95.61 for September 2013 and \$22.91 for October 2013. At the hearing, Claimant testified that he made additional payments to his child's custodial parent. The Department did not have any verification of any such payments and advised Claimant that a written statement from the custodial parent regarding direct payments could be used in determining his child support expenses for future budgets. See BEM 554, p. 7.

The FAP budget showed no shelter expenses. Shelter expenses are considered in calculating a client's FAP budget once verified. BEM 554, p. 14. The expense does not have to be paid in order to be allowed. BEM 554, p. 12. Claimant testified that he had provided a statement from his current landlord showing his monthly rental obligation, but the Department had no record of any such statement. Again, Claimant expressed frustration because he had forwarded this information to his worker in the Warren District office but the Pontiac office continued to process his FAP case. Claimant was afforded the opportunity to fax a copy of the document he had provided to the Warren office to be included as an exhibit and considered in connection with this Hearing Decision. Because Claimant failed to provide the document, it could not be considered in determining whether the Department properly considered his shelter expenses in his FAP budget in connection with the redetermination.

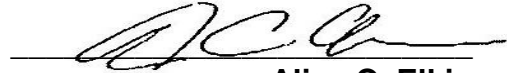
It is noted that Claimant appeared to be homeless at the time of his redetermination, which was handled by the Pontiac District office. Information Claimant provided to the Warren District office, his local office based on his new address, may have been processed as a change report to affect December 2013 benefits. However, because the Department did not have information concerning housing expenses at the time of Claimant's redetermination and Claimant failed to present any documentation showing that he incurred such expenses prior to October 31, 2013, the Department acted in accordance with Department policy when it did not include any housing expenses in processing the redetermination.

Based on the information described above that the Department had in connection with the redetermination, the Department acted in accordance with Department policy when it calculated Claimant's FAP budget and concluded that he had net income of \$461. BEM 556 (July 2013), pp. 1-7. Based on net income of \$461, Claimant was eligible for monthly FAP benefits of \$50 as of November 1, 2013. RFT 260 (November 2013), p. 5.

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 calculated Claimant's FAP benefits in connection with the redetermination.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 11, 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

ACE/pf

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]