

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15304
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: Allegan County DHS

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 January 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payment's Supervisor, and [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine the amount of the 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. The Claimant is a recipient of ongoing FAP benefits.
2. During a November 2013 review of the FAP case, the Claimant reported a pension.
3. On November 1, 2013, a Verification Checklist was issued to the Claimant stating what proofs were needed, including verification of the pension, by the November 12, 2013 due date.
4. On November 21, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 based on a failure to provide unearned income payment verification.

5. On November 26, 2013, the Claimant filed a request for hearing contesting the Department's action.
6. On November 26, 2013, the Claimant provided verification of the pension to the Department.
7. On December 3, 2013, the Claimant's FAP case was reinstated and the pension was included in the FAP budget.
8. The Claimant's monthly FAP allotment was reduced to \$ [REDACTED]

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.

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.

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. BEM 550. Retirement income, such as a pension, is counted as unearned income. BEM 503.

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. 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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with

the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130. The Department must re-register the FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

In some situations, negative actions must be deleted. When the requirement that caused the negative action is met before the negative action effective date, the Department worker is to enter the information the client provided to meet the requirement and follow the additional steps outlined in the policy to delete a negative action. BAM 220.

In this case, the Claimant did not provide the requested pension verification by the November 12, 2013 due date set on the Verification Check list. Accordingly, on November 21, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 based on a failure to provide unearned income payment verification.

When the Claimant provided the needed pension verification on November 26, 2013, which was prior to the December 1, 2013 effective date of the negative action, the Department re-instated the Claimant's FAP case and re-determined eligibility in accordance with Department policies. The Department included the pension income in the FAP budget, which resulted in a reduction of the monthly allotment to \$ [REDACTED]

The Claimant contests the amount of the FAP benefit and wanted to know if he would get the full FAP benefit back.

The evidence indicates that the Department properly re-determined the amount of the Claimant's FAP benefit when the FAP case was re-instated based on his current income. Pursuant to BEM 503 and BEM 550, the Department properly included the pension income in the Claimant's FAP budget.

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 re-instated the Claimant's FAP case and re-determined the amount of the ongoing FAP monthly allotment.

DECISION AND ORDER

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

/s/

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 10, 2014

Date Mailed: January 14, 2014

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

CL/hj

cc:

