

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

IN THE MATTER OF:



Reg. No.: 201418896
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 12, 2014
County: Wayne (35)

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 February 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly calculate 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. On December 7, 2013, the Department notified Claimant that effective January 1, 2014, her monthly FAP benefits would decrease to \$205.
3. On December 13, 2013, Claimant filed a request for hearing concerning this decrease.

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, Claimant's December 13, 2013 hearing request was tied to the December 7, 2013 Notice of Case Action informing her that her FAP benefits were decreasing to \$205 monthly effective January 1, 2014. Claimant's hearing request disputed the information the Department used to calculate her FAP benefits. Accordingly, Claimant's hearing was limited to the calculation of her FAP benefits effective January 1, 2014.

Because the Department did not present a FAP budget showing the calculation of Claimant's FAP budget, the figures and information on the December 7, 2013 Notice of Case Action were reviewed at the hearing. The Notice showed that Claimant had a FAP group size of two, gross monthly unearned income of \$893, housing costs of \$89 monthly, and no deduction for child support, dependent care or medical expenses.

At the hearing, Claimant agreed with all of the information used to calculate her FAP benefits except for its calculation of her unearned income and her housing costs. She also noted that she paid for her utilities.

The Notice showed that the Department considered the heat and utility standard of \$553 in calculating her benefits. \$553 is the standard amount currently provided under Department policy for heat and utility expenses for all FAP clients regardless of the expenses actually incurred by the client. BEM 554 (July 2013), pp. 14-15; RFT 255 (December 2013), p. 1. Therefore, the Department properly considered \$553 for heat and utilities in calculating Claimant's FAP benefits.

The Notice showed unearned income of \$893. The Department explained that Claimant's unearned income was the sum of her \$721 in monthly Supplemental Security Income (SSI), \$14 in monthly State SSI Payment (SSP) (based on a \$42 quarterly payment), and \$158 in monthly Family Independence Program (FIP) benefits. In her hearing request, Claimant disputed the Department's calculation of her unearned income. At the hearing, she acknowledged receiving SSI and FIP benefits in the amount the Department indicated but testified that she had not received her most recent quarterly SSP payment, which was due to her in December 2013. Although Claimant indicated in her hearing request that she contested the Department's calculation of her unearned income, the Department failed to verify prior to the hearing that Claimant was paid all the Department benefits it used to calculate her unearned income for FAP purposes. The Department testified that it was able to access information to determine

whether SSP payments have been made. See BEM 660 (July 2013), p. 3. Under the facts presented, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's unearned income.

In her hearing request, Claimant also disputed the Department's use of \$89 for her monthly rent amount, stating that her rent was \$90. At the hearing, she testified that she had notified the Department in the last certification document that she completed that her rent had increased to \$90. The Department did not present any evidence to rebut Claimant's testimony despite Claimant putting the Department on notice of her rent concern in her hearing request. As such, the Department failed to satisfy its burden of showing that it properly considered Claimant's shelter expenses in calculating her excess shelter deduction. See BEM 554, pp. 12-14.


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.

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 budget for January 1, 2014, requesting any required verifications; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2014, ongoing.


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

Date Signed: February 18, 2014

Date Mailed: February 18, 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

ACE/tlf

cc:

