

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24964
Issue No(s): 3003, 3008
Case No.: [REDACTED]
Hearing Date: February 26, 2014
County: Muskegon 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 February 26, 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] Family Independence Manager.

ISSUE

Did the Department properly determine the amount of Claimant's Food Assistance Program (FAP) monthly allotment for the January 2014 Redetermination?

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 an ongoing recipient of FAP.
2. The Claimant was receiving a FAP monthly allotment of \$ [REDACTED] for a group size of eight.
3. In January 2014, a Redetermination of Claimant's FAP and Child Development and Care cases was due.
4. On January 15, 2014, a Notice of Case Action was issued to the Claimant stating the FAP monthly allotment was approved for \$153 effective February 1, 2014 for a group size of seven.
5. On January 27, 2014, the Claimant filed a request for hearing contesting the Department's action regarding FAP.

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, 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. Child support is income to the child for whom the support is paid. Child support payments received by a custodial party for an adult child or a child no longer living in the home, are entered as other unearned income of the payee as long as the money is not forwarded to the adult/child. If forwarded to the adult/child, enter as the other unearned income of the adult/child. BEM 503. 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. The Department counts the gross amount of wages (except as specified in policy regarding the earned income tax credit, flexible benefits, strikers' countable earnings, student earnings disregard, and census workers). BEM 501. All FAP groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554.

The Claimant was receiving a FAP monthly allotment of \$894 for a group size of eight. In January 2014, a Redetermination of Claimant's FAP and Child Development and Care cases was due. On the Redetermination form, Claimant reported one of her sons had moved out of the home. (Exhibit A, page 4) Accordingly, the Department properly reduced Claimant's FAP group size to seven.

In processing the Redetermination, the Family Independence Manager explained that the Department discovered that child support had not been budgeted previously and there were also changes Claimant's employment income. The Department averaged the last three months of child support payments, verified by computer system generated child support reports, to budget the ongoing child support income. Claimant's employment information was also updated. Based on the changes in group size and income, as well as the inclusion of the child support in the FAP budget, the Department determined Claimant's FAP monthly allotment would be \$ [REDACTED]

Claimant's testimony indicated there have been further changes that decreased the FAP group's income. Claimant's ex was working two jobs, but one ended. The child support had been automatically deducted from his paychecks. Now that he only has one job, he is paying less in child support. Additionally, Claimant went off work on FMLA. The Family Independence Manager confirmed that the Department will re-determine Claimant's FAP budget based on these recent changes Claimant has reported.

The evidence is sufficient to establish that the Department properly re-calculated Claimant's FAP monthly allotment based on the information available for the January 2014 Redetermination. Accordingly, the reduction to Claimant's FAP case at issue for this hearing must be upheld. Once the Department has re-determined Claimant's FAP eligibility based on the more recent changes, written notice should be issued to Claimant. If Claimant disagrees with the new determination, a timely hearing request can be filed to contest the new case action.

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 for the January 2014 Redetermination based on the available information.

DECISION AND ORDER

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



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

Date Signed: March 5, 2014

Date Mailed: March 5, 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:

