

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

IN THE MATTER OF:

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

Reg. No.: 2014 25375
Issue No(s): 3008
Case No.: ██████████
Hearing Date: March 3, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 March 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, FIM, and ██████████, Assistance Payments Worker.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance ("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. The Claimant received FAP benefits in the amount of \$15 which he claimed was incorrect. On his application he indicated that he paid rent of \$250. Exhibit 1
2. The Department calculated the FAP benefits without including rent.
3. The Department did not seek verification as part of processing of the application.
4. A Notice of Case Action was issued on January 8, 2014 which calculated the FAP benefits at \$10 per month for December and \$15 month for January. Exhibit 3
5. The Department did not seek verification of rent until February 2013. The Claimant provided timely verification of rent.

6. Shelter verification was sent to the Claimant on February 7, 2014. Based upon the verification Claimant's FAP benefits were to be recalculated as of March 2014.
7. The Claimant requested a hearing on January 14, 2014 protesting the amount of his Food 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.

Additionally, in this case the FAP budget was reviewed and benefits were based upon information the Department received with the Claimant's application. BEM 554 requires that the Department seek verification at the time of application. BEM 554, pp 14, (2/1/14). In this case the Department did not verify rent information until two months after the application was filed. In this instance the Claimant did not receive the benefit of having his rent expense included due to the Department's failure to timely verify his rent. The Department is not allowed to use only that information provided with the application and wait to verify rent, as stated it must verify at application and failed to do so to the detriment of the Claimant.

At the hearing the undersigned ruled in the Department's favor finding that verification of rent was not provided and thus was not required to be included; then subsequently, upon further review of Department policy became aware of the Department's responsibility to verify at application, and thus the ruling finding the Department acted properly when calculating the Claimant's FAP benefits is vacated.

In this case had the Department sought verification at time of application the Claimant would have received more FAP benefits and cannot be penalized by the Department's failure to follow Department policy. BAM 115 also requires whether the standard of promptness is met or not met that the FAP begin date is the application when, as here, the Claimant was eligible in the application month. BAM 115, pp. 27, (3/1/14). Based upon this analysis, the evidence presented by the Department, and Department policy herein referenced, it is therefore determined that at the time of the application the Department did not properly calculate the FAP benefits without including the rent, as rent had not been properly verified by the Department and should have been done at that time. Verification is usually required at application BEM 554, BAM 130, pp 1 (4/10/14), and BAM 115, pp 27, (3/1/14)

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

- Did not act in accordance with Department policy when it calculated the Claimant's FAP benefits without seeking verification of rent at the time of the application and should have included the rent when calculating December 2013 and January 2014 benefits.

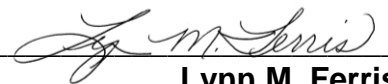
DECISION AND ORDER

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. The Department shall recalculate the Claimant's FAP benefits retroactive to the application date and shall include the Claimant's rent of \$250.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits he was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 11, 2014

Date Mailed: March 11, 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

LMF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]