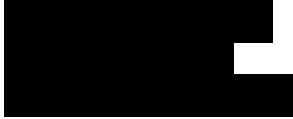


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-25473
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 3, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Manager.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective January 1, 2014, ongoing?

Did the Department properly close Claimant's FAP benefits effective March 1, 2014, 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. On January 21, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective March 1, 2014, ongoing, due to her net income exceeding the limits. See Exhibit 1.
3. On January 30, 2014, Claimant filed a hearing request, protesting the FAP case closure. See Exhibit 1.

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.

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. See BEM 556 (July 2013), p. 5. RFT 250 indicates that the monthly net income (100%) limit for a group size of one is \$958. See RFT 250 (December 2013), p. 1.

In this case, Claimant was an ongoing recipient of FAP benefits. On January 21, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective March 1, 2014, ongoing, due to her net income exceeding the limits. See Exhibit 1.

It is not disputed that the group size is one and that she is a senior/disabled/disabled veteran (SDV) member. A senior is a person who is 60 years of age or older. See BPG Glossary (January 2014), p. 59.

At the hearing, though, the Department testified that it erred in the calculation of Claimant's FAP budget. The Department presented a March 2014 FAP budget, which indicated a total countable unearned income amount of \$2,876. See Exhibit 1. The Department testified that the March 2014 budget included unemployment and Social Security income. However, the Department testified that Claimant did not receive that unearned income and therefore, it should have been excluded. Moreover, the Department testified that it also included unemployment income in Claimant's January and February 2014 FAP budgets, which should have also been excluded and/or recalculated. Claimant last received unemployment compensation in the amount of \$670 on January 4, 2014. See Unemployment Compensation document, Exhibit 1.

The Department counts the gross amount of unemployment benefits as unearned income. See BEM 503 (January 2014), p. 34. The Department also counts the Retirement, Survivors, and Disability Insurance (RSDI) and/or current Social Security Administration (SSA)-issued Supplemental Security Income (SSI) as unearned income. See BEM 503, pp. 28 and 32.

For starting income, the Department uses the best available information to prospect income for the benefit month. BEM 505 (July 2013), p. 7. This may be based on expected work hours times the rate of pay. BEM 505, p. 7. Or if payments from the new source have been received, the Department uses them in the budget for future months if they accurately reflect future income. BEM 505, p. 7.

For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505, p. 7. The Department uses the best available information to determine the amount of the last check expected. BEM 505, p. 7. The Department uses information from the source and from the client. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7.

Based on the above information, it is determined that the the Department improperly calculated Claimant's FAP unearned income effective January 1, 2014, ongoing, in accordance with Department policy. Also, the Department improperly closed Claimant's FAP benefits effective March 1, 2014, ongoing. See BEM 503, pp. 28-34 and BEM 505, p. 7.

First, the Department testified that it erred in the calculation of Claimant's FAP benefits effective January 1, 2014, ongoing.

Second, it appeared that the Department should have only budgeted Claimant's unemployment compensation for January 2014 as that was when she last received unemployment income (\$670 received on January 4, 2014). See Exhibit 1 and BEM 505, p. 7. However, the Department testified that it continued to budget her unemployment income for February and March 2014, even though she did not receive that income for those months. Also, the Department testified that it included SSA income for March 2014, which should have also been excluded in the FAP budget as Claimant did not receive that form of income. The Department testified that Claimant was awarded SSA benefits, but did not receive payments yet.

In summary, the Department erred in the calculation of Claimant's FAP benefits effective January 1, 2014, ongoing. The Department will reinstate Claimant's FAP benefits effective March 1, 2014, ongoing. The Department will also recalculate Claimant's unearned income effective January 1, 2014, ongoing.

It should be noted that Claimant did not dispute any of the other calculations notated in the FAP budget. For example, Claimant agreed that her housing costs are \$108.43. See Notice of Case Action dated January 21, 2014, Exhibit 1.

DECISION AND ORDER


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 (i) improperly closed Claimant's FAP

benefits effective March 1, 2014, ongoing; and (ii) improperly calculated Claimant's FAP benefits effective January 1, 2014, ongoing.

Accordingly, the Department's FAP 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. Reinstate Claimant's FAP case as of March 1, 2014;
2. Begin recalculating the FAP budget for January 1, 2014, ongoing, including Claimant's unearned income (unemployment income and/or SSA income), in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 6, 2014

Date Mailed: March 6, 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

EJF/tlf

cc:

