

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27259
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Ottawa

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED]; Assistance Payments Supervisor, [REDACTED] and Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to reduce the Claimant's monthly Food Assistance Program (FAP) 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 was an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED]
2. On January 30, 2014, the Department received the Claimant's semiannual contact form and [REDACTED]
3. On January 30, 2014, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment was reduced to \$ [REDACTED] effective February 1, 2014.

4. On February 10, 2014, the Department received the Claimant's written hearing request protesting the reduction in his FAP allotment.

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.

The sole issue in this case is whether or not the Claimant's [REDACTED] had been properly budgeted. The uncontested fact is that the Claimant received a [REDACTED] on [REDACTED]. There were [REDACTED] received in the months of [REDACTED]. The Claimant testified that the payment received in December was for arrears owing up to May 2013. The Department testified that it took a three month average of the \$ [REDACTED] (\$ [REDACTED]) and budgeted that average prospectively in the Claimant's FAP budget. The Claimant testified that she has not received a child support payment since December 2013, nor was she expecting to receive a child support payment anytime in the near future.

Additionally, Bridges Eligibility Manual (BEM) 505 (2013) addresses prospective budgeting and income change processing. BEM 505 pp.3, 4, instructs Department workers to use the average of child support payments received in the past three calendar months, *unless changes are expected*. Department workers are instructed to not include amounts that are unusual and not expected to continue. Indeed, if payments for the past three months vary, the Department is to discuss the payment pattern from the past with the Claimant. The Department worker is to clarify whether the pattern is expected to continue or, if there are known changes. If the regular pattern is expected to continue, then use the average of the three months. If there are known changes that will affect the amount of the payments for the future, then the Department's worker is **not** use the past three months to project. Instead, the Department's worker is to document the discussion with the Claimant and how the Department worker decided on the amount to budget.

The Department conceded on the record that no discussions with the Claimant regarding her child support income were held before the Department decided to take an average of the past three months. Child support income based on the December 2013 child support arrearages check of \$1263.75. It is not contested that this amount is an unusual amount. The Claimant testified that the large check was a result of the tax

intercept and it was therefore not expected to continue. As such, this Administrative Law Judge concludes that the Department was not acting in accordance with Departmental policy when determining the Claimant's monthly FAP allotment.

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 took action to reduce the Claimant's monthly FAP allotment..

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. Re-determine the Claimant's eligibility for FAP back to February 1, 2014, and
2. Issue the Claimant any supplement she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/20/14

Date Mailed: 3/21/14

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 Claimant;
- 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

SEH/tb

cc:

