

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

IN THE MATTER OF:



Reg. No.: 2014-29341
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: June 12, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 June 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly calculate Claimant's 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. See Hearing summary.
2. Claimant informed the Department during or before December, 2013 that her housing had changed.
3. As a result, Claimant's FAP decreased to \$ [REDACTED] per month for January and February 2014.
4. It is unclear whether the Department properly requested housing verification.
5. On February 13, 2014, the Department sent Claimant a Notice of Case Action increasing FAP from \$ [REDACTED] per month to \$ [REDACTED] per month from March 1, 2014.
6. On February 21, 2014, Claimant requested a hearing.

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, it is clear from Claimant's hearing request that the hearing was requested not only concerning the February 13, 2014 decision but also concerning an earlier decision to award Claimant \$ [REDACTED] per month, particularly since Claimant's hearing request expressly references the \$ [REDACTED] per month in benefits. The Department did not prepare to address this issue despite Claimant's hearing request, nor has it been shown that the Department properly requested housing verifications. Accordingly, the award for \$ [REDACTED] per month for January and February must be reversed.

Concerning the award of \$ [REDACTED] per month from March 2014, the Department did not err.

The Department's computer system known as "Bridges" uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued only if the expense could not be verified within 30 days of the application and the local office was at fault. BEM 554.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554. The Department determines the amount of monthly income from biweekly checks by averaging any biweekly check and multiplying the average biweekly check amount by 2.15. RFT 505. The Department determines

the amount of monthly income from weekly checks by averaging the weekly checks and multiplying the average by 4.3.

Claimants total gross income during the relevant period was \$ [REDACTED]. The Department properly determined Claimant's Net Income to be \$755. Claimant's Standard Deduction of \$ [REDACTED] is appropriate. RFT 255.

The Excess Shelter deduction of \$ [REDACTED] property reflected the housing cost of \$ [REDACTED] per month from lot rent, mortgage, and home insurance and standard utility deduction of \$ [REDACTED] minus 50% of Adjusted Gross Income. See BEM 554, 556.

RFT 260 provides that a FAP group of this size with a monthly net monthly income after deductions of \$ [REDACTED] would be eligible to \$ [REDACTED] per month in FAP benefits if otherwise eligible.

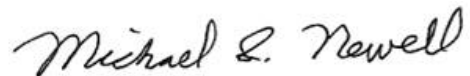
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Claimant's FAP budget from March 2014 and failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's FAP benefits for January and February 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's FAP benefits from March 1, 2014 and **REVERSED IN PART** with respect to Claimant's FAP benefits for January and February of 2014.

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. Redetermine Claimant's benefits for January and February 2014.
2. Request verifications for these months, if necessary, in accordance with BAM 130.
3. Provide and necessary supplemental benefits in accordance with policy.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 20, 2014

Date Mailed: June 20, 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

MSN/las

cc:

