

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

IN THE MATTER OF:

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

Reg. No.: 2014-29362
Issue No.: 3007
Case No.: ██████████
Hearing Date: March 20, 2014
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, ES.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly calculate benefits for the Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant received FAP benefits.
2. The Department issued a verification checklist and shelter verification form to Claimant on December 16, 2013.
3. On December 18, 2013, Claimant reported a new address and a change of rent.
4. The Department issued a new Shelter Verification form to Claimant on December 18, 2013.

5. The Department issued a Notice of Case Action on January 8, 2014, closing Claimant's case effective February 1, 2014 due to Claimant failing to provide proof requested in the verification checklist.
6. Claimant met with the Department worker on January 14, 2014, at which point the Department worker requested only Claimant's checking information to reinstate Claimant's FAP case.
7. The Department reinstated Claimant's FAP case on January 14, 2014 because Claimant provided proof of his banking account.
8. When the Department reinstated Claimant's case, the Department did not use a shelter amount in the budget.
9. On February 24, 2014, Claimant requested a hearing, protesting the amount of FAP benefits issued.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105; BAM 130. The client should be allowed 10 calendar days to provide the verification. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. *Id.* "Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification." *Id.*

Additionally, BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Adjusted gross income in a household of one is determined by subtracting a standard amount. (RFT 255). Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter deduction, if any. BEM 554.

In the present case, the Department issued a VCL on December 16, 2013, requesting proof of rent and a bank statement. The Department initially closed Claimant's FAP case, issuing a Notice of Case Action on January 8, 2014, because Claimant did not

give proof of information requested in the verification checklist. However, on January 14, 2014, Claimant met with his worker to provide requested information and the worker told Claimant all she needed was the bank statement to reinstate the case. The worker did not mention rent. Claimant had proof regarding his rent at the meeting, but the focus was on the bank statement. It appears that miscommunication occurred between the worker and Claimant. It is found that Claimant cooperated to the best of his understanding of what was required at the January 14, 2014 meeting, and it is not found that Claimant failed to cooperate. It also appears that the Department failed to protect Claimant's rights, per BAM 105, when the worker neglected to bring the rent verification to Claimant's attention at the January 14, 2014 meeting, and thereafter did not include the rental amount in calculating Claimant's February, 2014 FAP benefits.

The Department included Claimant's rent to calculate benefits for March 2014 and ongoing. Claimant testified at the hearing that he was protesting the amount of FAP benefits for the month of February of 2014, as the Department did not include the rental amount for the February, 2014 calculation of FAP benefits.

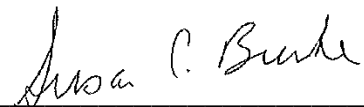
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's February, 2014 FAP 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. Recalculate Claimant's February, 2014 FAP benefits, taking into account Claimant's shelter expense.
2. Issue FAP supplements, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 21, 2014

Date Mailed: March 21, 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

SCB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]