

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-29518
Issue No(s): 3007, 3008
Case No.: [REDACTED]
Hearing Date: March 25, 2014
County: Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 25, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Eligibility Specialist.

ISSUES

Did the Department properly re-calculate Claimant's Food Assistance Program (FAP) benefits retroactive to January 1, 2014 in accordance with the February 7, 2014 Hearing Decision?

Did the Department properly reduce Claimant's FAP monthly allotment effective March 1, 2014?

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 is a recipient of ongoing FAP benefits.
2. On February 7, 2014, a Hearing Decision was issued ordering the Department to re-calculate Claimant's FAP benefits from January 1, 2014 with an earned income amount of \$ [REDACTED] instead of the amount previously used by the Department.
3. The Department re-calculated Claimant's FAP benefits based on updated verification of wages documenting a greater earned income amount.

4. On February 12, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would be reduced to \$ [REDACTED] effective March 1, 2014.
5. On February 24, 2014, Claimant filed a request for hearing contesting the Department's actions.

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 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. BEM 550. In accordance Department policy, stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Income received weekly is multiplied by 4.3. BEM 505. Every case is allowed the standard deduction shown in RFT 255. BEM 550. All FAP groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554.

The Claimant disagrees with the earned income figure used in calculating her FAP monthly allotment, but did not contest the remaining figures shown on the FAP budget summary in the February 12, 2014 Notice of Case Action. Specifically, Claimant contests the Department's failure to comply with the February 7, 2014, a Hearing Decision ordering the Department to re-calculate her FAP benefits from January 1, 2014 with an earned income amount of \$ [REDACTED] instead of the amount previously used by the Department.

The Eligibility Specialist explained that new income verification was obtained, which showed the actual wages for January 2014. The updated wages were then used to re-calculate Claimant's FAP benefits. The Department submitted a copy of the Work Number verification showing Claimant's actual January 2014 earnings. (Exhibit A, page 15) It was uncontested that Claimant is paid weekly and her earnings fluctuate. Therefore, it is appropriate to multiply the average of her monthly income by 4.3 to

determine a standard monthly amount for prospecting income in accordance with the BEM 505 policy. The updated income verification was an appropriate basis for re-determining Claimant's ongoing FAP benefits. Accordingly, the reduction to Claimant's FAP benefits effective March 1, 2014 must be upheld.

However, the Eligibility Specialist erred failing to comply with the February 7, 2014 Hearing Decision Order to use the specified earned income amount of \$ [REDACTED] to re-calculate Claimant's FAP benefits retroactive to January 1, 2014. The Hearing Decision Order was based on the information available to the ALJ at the time of that hearing, which was noted to be uncontested in the decision. (Exhibit 1, page 2) While the Department can use the more recently obtained earned income verification to determine Claimant's ongoing eligibility for FAP, the Department was still required to comply with the February 7, 2014, a Hearing Decision and re-calculate Claimant's FAP benefits retroactive to January 1, 2014 utilizing an earned income amount of \$ [REDACTED]

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 reduced Claimant's FAP benefits effective March 1, 2014 but failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not comply with the February 7, 2014, Hearing Decision ordering the Department to re-calculate Claimant's FAP benefits from January 1, 2014 with an earned income amount of \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the reduction to Claimant's FAP monthly allotment effective March 1, 2014 and REVERSED IN PART with respect to failure to comply with the February 7, 2014, Hearing Decision ordering the Department to re-calculate Claimant's FAP benefits from January 1, 2014 with an earned income amount of \$ [REDACTED]

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-calculate Claimant's FAP benefits for January 2014 and February 2014 with an earned income amount of \$ [REDACTED]
2. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 31, 2014

Date Mailed: March 31, 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

CL/hj

cc:

