

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No.:
Case No.:
Hearing Date:
County:

[REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 [REDACTED] from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

ISSUE

Did the Department properly process Claimant's shelter expenses for purposes of his active Food Assistance Program (FAP) case within the standard of promptness?

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 active for FAP with [REDACTED] monthly allotment.
2. On [REDACTED], the Department received verification that Claimant's monthly rental expense increased from [REDACTED].
3. The Department formally entered Claimant's new rental expense onto the computer system on [REDACTED].
4. On [REDACTED], the Department mailed Claimant a Notice of Case Action (DHS-1605) which increased Claimant's monthly FAP allotment to \$ [REDACTED] effective [REDACTED].
5. Claimant requested a hearing on [REDACTED] to challenge the Department's decision to increase his FAP effective [REDACTED] rather than [REDACTED] when

he first reported the change in rental expense. Specifically, Claimant seeks a supplement FAP payment for [REDACTED].

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.

For all programs, the standard of promptness (SOP) is the maximum time allowed to complete a required case action. Cases should be processed as quickly as possible. The SOP sometimes varies by program. BAM 220, p 6 (1-1-2014).

With regard to FAP cases only, the Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220, p 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220, p 7.

Here, Claimant argues that he timely and properly submitted verification that his rental expense had increased but the Department's failure to enter the expense on the computer sooner prevented him from receiving increased FAP in April rather than in May. Claimant further states that his Department caseworker failed to exercise due diligence after he left her several telephone messages regarding the verifications but she failed to return his telephone calls. Claimant contends that had his caseworker timely returned his telephone calls, he most likely would have returned the verification of the rental expense change prior to [REDACTED] and would have received the FAP increase earlier. The Department, on the other hand, contends that it acted properly when it entered Claimant's new rental obligation on [REDACTED] because it was within the 10 day SOP according to BAM 220. The Department further indicates that no FAP supplement is warranted for April under these circumstances.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569

NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record evidence shows that the Department received Claimant's rental expense change on March 26, 2014 and acted upon the change by entering the information onto the Bridges computer system on April 3, 2014. This was within the 10 day SOP according to BAM 220, p 6.

In addition, BAM 220, at p 7 provides the following example:

Rich reports on [REDACTED] that he now has a shelter expense. Act on the change by [REDACTED] May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Affect the April issuance if the action can be completed by [REDACTED].

The Department followed policy when it applied Claimant's rental expense change toward [REDACTED] rather than [REDACTED]. The scenario in the instant matter is similar to the example provided above. Because the Department timely processed Claimant's rental expense change within the SOP on [REDACTED], the first month affected by the change would be [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 determined that Claimant's monthly FAP benefits increased effective [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 19, 2014

Date Mailed: May 19, 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

CAP/las

cc:

