

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

IN THE MATTER OF:

██████████
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Reg. No.: 2014-35085
Issue No(s): 3008
Case No.: ██████████
Hearing Date: May 19, 2014
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 May 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Hearings Coordinator.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective April 1, 2014, ongoing?

Did the Department properly process Claimant's reported change in shelter costs?

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 an ongoing recipient of FAP benefits.
2. On or around March 9, 2014, Claimant verbally reported to the Department a change in address and/or shelter costs that resulted from a move on or around March 7, 2014.
3. On March 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$15 effective April 1, 2014,

ongoing, due to her housing costs being zero and a medical expense deduction amount has changed. See Exhibit 1.

4. On March 14, 2014, the Department sent Claimant a Shelter Verification, which was due back by March 24, 2014. See Exhibit 2.
5. On or around March 20, 2014, the Department received a Shelter Verification, which indicated Claimant's monthly shelter obligation is \$713. See Exhibit 2.
6. On April 1, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$189 effective May 1, 2014, ongoing and it also indicated that the housing costs were \$713. See Exhibit 1.
7. Subsequent to the Notice of Case Action dated April 1, 2014, Claimant discovered that the \$713 was the improper amount and that her landlord provided the wrong shelter obligation. See Exhibit 2.
8. On April 16, 2014, the Department sent Claimant a second Shelter Verification, which was due back by April 28, 2014. See Exhibit 2.
9. On April 16, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

As a preliminary matter, Claimant testified that she is not disputing her FAP allotment for May 2014, ongoing, and that she is only disputing the shelter amount issue. Thus, this hearing decision will address Claimant's FAP benefits for April 2014, specifically, the shelter costs.

In this case, Claimant is an ongoing recipient of FAP benefits. On or around March 9, 2014, Claimant verbally reported to the Department a change in address and/or shelter costs that resulted from a move on or around March 7 2014. On March 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits

would decrease to \$15 effective April 1, 2014, ongoing, due to her housing costs being zero and a medical expense deduction amount has changed. See Exhibit 1. It should be noted that Claimant testified that she did not receive this notice dated March 12, 2014.

Additionally, on March 14, 2014, the Department sent Claimant a Shelter Verification, which was due back by March 24, 2014. See Exhibit 2. It appeared from the Department's testimony that March 14, 2014, was Claimant's reported change in shelter costs because this was the same date the shelter verification was sent. Claimant testified she received the verification request and provided it to her landlord. On or around March 20, 2014, the Department received a Shelter Verification, which indicated Claimant's monthly shelter obligation is \$713. See Exhibit 2. Then, on April 1, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$189 effective May 1, 2014, ongoing and it also indicated that the housing costs were \$713. See Exhibit 1. Subsequent to the Notice of Case Action dated April 1, 2014, Claimant reviewed this document and discovered that the shelter costs were not \$713. Claimant notified the Department that the landlord provided the wrong shelter obligation. See Exhibit 2. Therefore, on April 16, 2014, the Department sent Claimant a second Shelter Verification, which was due back by April 28, 2014. See Exhibit 2.

On April 16, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1. It should be noted that the following occurred after Claimant's hearing request. However, on April 18, 2014, the Department received verification of the shelter costs and it showed Claimant's monthly obligation was \$275. See Exhibit 1. On or around April 18, 2014, an updated Notice of Case Action was sent to the Claimant that reflected the proper shelter costs for Claimant's FAP benefits effective May 1, 2014, ongoing. But, Claimant is still disputing that her April 2014 benefits should have not been decreased and should have also reflected a shelter costs amount of \$275.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2014), p. 9. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 10. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 10.

The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), 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. BAM 220, pp. 6-7. For non-income changes, complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. BAM 220, p. 9.

The Department verifies shelter expenses at application and when a change is reported. BEM 554 (February 2014), p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. Acceptable verification sources include, but are not limited to a DHS-3688, Shelter Verification form. BEM 554, p. 14. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in the system. BEM 554, p. 14. The due date will be on the form. BEM 554, p. 14. The specialist must monitor for return of the form and take appropriate action if it is or is not returned. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department failed to properly process Claimant's reported change in shelter costs.

First, both parties acknowledged that ultimately the correct verification of shelter costs was received on April 18, 2014 and that her monthly housing costs are \$275. See Exhibits 1 and 2.

Second, the Department improperly processed Claimant's reported change in shelter costs. There is no dispute that the Department acted within 10 days of the reported change when it sent the Shelter Verification on March 14, 2014. However, the effective date of the change for the FAP allotment was improperly applied by the Department. The evidence presented that Claimant reported a change in shelter costs on or around March 9, 2014 and verification was provided on or around March 20, 2014; therefore, this would have affected the April 2014 FAP allotment. See BAM 220, pp. 6-7 and 9. However, on April 1, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$189 effective May 1, 2014, ongoing and it also indicated that the housing costs were \$713. See Exhibit 1. The month of May 2014 would not be the first month affected by the change, instead, April 2014 would be the first month affected by the change. See BAM 220, pp. 6-7 and 9. Even though it was subsequently discovered that the \$713 shelter cost was wrong, the Department still applied the improper effective date of change for the FAP allotment. Therefore, the Department will apply shelter costs in the amount of \$275 for Claimant's FAP benefits effective April 1, 2014, ongoing. See BAM 220, pp. 6-7 and 9. It should be noted that the Department already has verification of the shelter costs in the amount of \$275, thus, additional verification is not necessary. See Exhibit 1.

DECISION AND ORDER

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 (i) improperly calculated Claimant's FAP benefits effective April 1, 2014; and (ii) did not properly process Claimant's reported change in shelter costs.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget for April 1, 2014, ongoing (including \$275 for Claimant's shelter costs) and in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 21, 2014

Date Mailed: May 21, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

2014-35085/EJF

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

EJF/cl

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