

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

IN THE MATTER OF:



Reg. No.: 2014-7834
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: November 27, 2013
County: Macomb County DHS #20

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 November 27, 2013, 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] Assistance Payments Worker.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance Program (FAP) monthly 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. The Claimant was an ongoing recipient of FAP benefits.
2. The Department re-calculated the Claimant's FAP budget correcting error that had been made regarding the Claimant's income.
3. On October 4, 2013, a Notice of Case Action was sent to the Claimant stating, in part, the FAP monthly allotment would be reduced to \$ [REDACTED] effective November 1, 2013. (Exhibit A, pages 10-13)
4. On October 22, 2013, the Claimant filed a request for hearing protesting the Department's action.

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. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550. For income from employment, the gross wages are counted as earned income. BEM 501. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Income that is received weekly is multiplied by 4.3. BEM 505. The gross amount of Social Security benefits is counted as unearned income. BEM 503. 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 Assistance Payments Worker testified that the prior FAP budget showed an adjusted gross income of \$ [REDACTED] (Exhibit A, page 2) However, there was an error regarding income in that FAP budget. The Assistance Payments worker stated the earned income and part of the countable unearned income had not been included. Accordingly, the FAP budget was recalculated and the new adjusted gross income for the group was \$ [REDACTED] (Exhibit A, page 6) The Assistance Payments Worker explained that this significant difference in income resulted in the dramatic decrease in the Claimant's monthly FAP allotment.

The Claimant testified that he turned in what was needed, including pay stubs and verification of the children's Social Security benefits, to a prior Department worker. The Claimant does not know what happened, such as whether the income documentation was lost or not budgeted correctly for some other reason. The Claimant provided testimony regarding his current work earnings and the Social Security benefit amounts for the children.

However, the Claimant's testimony regarding his current work earnings was noted to be a bit lower than what was documented on the pay stubs the Assistance Payments

Worker received from the end of August 2013 and most of September 2013. The Assistance Payment's Worker's testimony and indicated she utilized a SOLQ report to confirm the Social Security benefit amounts for the children.

The Department properly considered the FAP group's earned income, Social Security benefit income, and housing costs along with the standard deduction and the heat/utility standard in effect at that time. (Exhibit A, pages 6-7 and 12) The Department utilized the verified income amounts from about a month's worth of current paychecks and the SOLQ report of the children's Social Security benefits. While this resulted in a dramatic decrease in the monthly FAP allotment, the Department properly corrected the prior error regarding the budgeted income. Accordingly, the evidence supports the Department's calculation for the FAP monthly allotment that went into effect November 1, 2013 based on the information available at that time.

Pursuant to BAM 105, if there are changes in the Claimant's work hours and/or income, the Social Security benefits, or other circumstance that potentially affect eligibility or benefit amount, the Claimant must timely report these changes to the Department for determining ongoing eligibility and benefit amounts.

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 the Claimant's FAP monthly allotment.

DECISION AND ORDER

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

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

Date Signed: December 5, 2013

Date Mailed: December 6, 2013

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:

