

**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 8682
Issue No.: 3001
Case No.: ██████████
Hearing Date: November 25, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, telephone hearing was held on November 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, FIS Worker.

ISSUE

Did the Department properly find the Claimant in noncooperation with the office of Child support and properly remove her from her Food Assistance group?

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 found in noncooperation with the Office of Child Support.
2. The Claimant was found in cooperation by the Macomb County prosecutor on August 7, 2013. The Office of Child Support in Wayne County was unaware of this finding.
3. The Office of Child Support did not appear at the hearing.
4. The Department decreased the Claimant's Food Assistance and removed the Claimant from her Food Assistance Group due to noncooperation. The change occurred on November 1, 2013.

5. Although a notice of case action was issued October 8, 2013 which reduced the Claimant's Food Assistance due to changes in household income and reduction of group size, the Notice of Case Action was not provided as an exhibit.
6. The Claimant requested a hearing on October 2, 2013 requesting that her food assistance reduction be reviewed.

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.

Additionally, in this case the Department advised the undersigned at the hearing that the Claimant had been found in cooperation by the Macomb County Prosecutor as of August 7, 2013. The Department representative contacted Macomb County during the hearing. The evidence presented was unclear as to when the Claimant was removed from her FAP group for noncooperation with child support; however, the Department did confirm that Claimant was in cooperation with child support as of August 7, 2013 and thus is required to recompute any FAP benefits after that date if the Claimant was still not included in the FAP group due to noncooperation. BEM 255 p. 9.

Additionally the Claimant provided additional pay stubs previously provided to the Department which covered her earned income received as she asserted that the Department had improperly reduced her FAP benefits based on income and group size reduction due to noncooperation. No FAP budgets were presented and thus the Department did not sustain its burden of proof on this issue and is required to recompute the Claimant's FAP benefits. In recomputing FAP benefits the Department is to use the pay stubs demonstrating earned income provided by the Claimant at the hearing, and as previously determined in the prior paragraph, recalculate the FAP benefits adding the Claimant to her FAP group as a member on and after August 7, 2013 in accordance with Department policy.

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 removed the Claimant from her FAP group and reduced her FAP benefits after August 7, 2013, the date Claimant was determined to be in cooperation.

- failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not present the basis for determining the Claimant's Food Assistance benefit amount and presented no budgets.

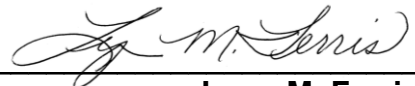
DECISION AND ORDER

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. The Department shall recalculate the Claimant's FAP benefits from and after August 7, 2013, the date she was in cooperation with child support requirements, and include the Claimant in her FAP group as a member. The Department shall also include the correct income for the Claimant when recalculating the FAP benefits and include the correct earned income based upon pay stubs presented by the Claimant at the hearing.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits the Claimant was otherwise entitled to receive, if any, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 3, 2013

Date Mailed: December 3, 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

LMF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]