

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017458
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 07, 2015
County: EATON

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 January 7, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 25, 2014, Claimant submitted an application for Food Assistance Program benefits.
2. On August 26, 2014, Claimant was sent a Notice of Case Action (DHS-1605) stating her Food Assistance Program eligibility determination was \$ [REDACTED] per month for a benefit group of one for August 2014 and \$ [REDACTED] per month for a benefit group of two from September 1, 2014 ongoing.
3. On August 28, 2014, the Department determined that Claimant's Food Assistance Program financial eligibility budget was incorrect. A ticket was filed to correct the income in Claimant's Food Assistance Program financial eligibility budget.
4. On October 27, 2014, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program eligibility as \$ [REDACTED] per month for a

benefit group of two for November 2014 and \$10 per month for a benefit group of 3 from December 1, 2014 ongoing.

5. On December 1, 2014, Claimant's Food Assistance Program financial eligibility budget had still not been corrected. Claimant submitted a hearing request.

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.

In this case the Department representative testified credibly that Claimant's Food Assistance Program financial eligibility budget still contains FIP payments that she does not receive. The Department has already filed a ticket to have the issue corrected from the July 25, 2014, application date. In accordance with Bridges Administration Manual (BAM) 600 Hearings (2014) there are jurisdictional limitations based on the date a hearing request is filed:

Deadlines for Requesting a Hearing

All Programs

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days; see Where to File a Hearing Request, found in this item.

Note: Days, as used in this item, mean calendar days unless otherwise specified.

Exception: For **FAP only**, the client or AHR may request a hearing disputing the current level of benefits at any time within the benefit period.

Because the hearing request in this case was submitted on December 1, 2014, there is no jurisdiction to address the August 26, 2014 Food Assistance Program eligibility determination made 96 days earlier. The order resulting from this hearing may only address the October 27, 2014 Food Assistance Program eligibility determination. However, since the August 28, 2014 ticket is for a problem which still exists, this order should lend priority to resolution of the problem.

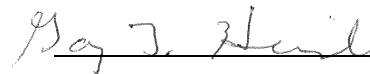
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's Food Assistance Program eligibility in the October 27, 2014 eligibility determination.

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. Re-determine Claimant's Food Assistance Program eligibility in accordance with Department policy.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/12/2015**

Date Mailed: **1/12/2015**

GFH/hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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.

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 48909-8139

cc:

