

**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.: 15-002648
Issue No.: 3008
Case No.: ██████████
Hearing Date: March 25, 2015
County: Wayne-District 15 (Greydale)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 25, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████, Assistance Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for January 6, 2015 ongoing?

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 January 6, 2015, Claimant applied for FAP benefits for herself and her ██████-year-old son (Exhibit C).
2. On January 7, 2015, Claimant had a phone interview with her Department worker (Exhibit D).
3. On January 9, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved FAP benefits of \$119 for January 6, 2015 to January 31, 2015 and for monthly FAP benefits of \$143 for February 1, 2015 ongoing (Exhibit A). The budget on the Notice showed that there were no housing expenses considered.

4. On January 14, 2014, Claimant sent the Department a rent receipt that did not identify her address.
5. On January 20, 2015, the Department sent Claimant a Shelter Verification, DHS-3688 (Exhibit F).
6. On January 23, 2015, Claimant submitted a second rent receipt that showed her address.
7. On February 4, 2015, Claimant notified the Department that her unemployment benefits had ended.
8. On February 4, 2015, the Department sent Claimant a Notice of Case Action notifying her that she was eligible for monthly FAP benefits of \$357 effective March 1, 2015. The budget shows that it considered that Claimant had no income other than \$17 in monthly child support and that her monthly housing expenses were \$750.
9. On February 13, 2015, Claimant filed a request for hearing disputing the Department's actions.

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.

After Claimant applied for FAP benefits on January 6, 2015, she was approved for \$119 in FAP benefits for January 6, 2015 to January 31, 2015, and \$143 in monthly FAP benefits for February 1, 2015 ongoing. After Claimant verified her monthly shelter expenses, and after she reported that her unemployment benefits had ended, the Department recalculated her FAP budget and on February 4, 2015, it sent her a Notice of Case Action informing her that her FAP benefits were increasing to \$357 monthly effective March 1, 2015. The maximum monthly FAP allotment available to a two-person FAP group is \$357. RFT 260 (October 2014), p. 1. Claimant contended that her FAP benefits from the time of application to March 1, 2015 should have been greater than calculated by the Department.

Although the Department did not provide a net income budget showing the calculation of Claimant's FAP benefits at the time of application, the information shown on the budget in the January 9, 2015 Notice of Action was reviewed with Claimant at the hearing. Claimant testified that she received biweekly unemployment compensation benefits of \$464. In accordance with Department policy, Claimant's biweekly pay was multiplied by 2.15 and results in gross monthly unearned income of \$997 as shown on the budget in the Notice. See BEM 505 (July 2014), pp. 7-8.

The budget in the Notice showed that Claimant received a \$154 standard deduction, which is the applicable deduction for a two-person FAP group. BEM 554 (October 2014), p. 1; RFT 255 (October 2014), p. 1. Claimant confirmed that she did not pay child support or day care expenses. Because Claimant confirmed that there were no senior/disabled/veteran members of her FAP group, she was not eligible for any medical expense deductions. Therefore, the budget properly shows no deductions for child support, day care or medical expenses. BEM 554, p. 1. The budget also showed that the Department applied the mandatory heat/utility (h/u) standard of \$553, the most beneficial utility standard available to a client, to Claimant's case. BEM 554, pp. 14-20; RFT 255, p. 1. The budget showed that no shelter expenses were considered. However, Claimant testified that she paid \$750 in monthly rent.

At issue is when Claimant's shelter expenses and the termination of her unemployment benefits should have been budgeted.

The Department testified, and Claimant acknowledged, that Claimant reported to her worker on February 4, 2015, that her unemployment benefits had ended. Changes which result in an increase in the household's FAP 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 (October 2014), p. 6; BEM 505 (July 2014), p. 10. A decrease in unearned income would result in an increase in benefits. Such a change reported on February 4, 2015, would affect March 2015 FAP benefits. Therefore, the Department acted in accordance with Department policy when it reduced Claimant's unearned income to \$0 for the March 2015 ongoing budget.

With respect to the rent, Claimant acknowledges that she improperly failed to list her monthly \$750 rent as an expense in her January 6, 2015, application. She testified, however, that during her phone interview with her worker on January 7, 2015, her worker asked her if she had shelter expenses, she notified the worker that she paid rent, and her worker told her she would send out a verification checklist requesting verification of the rent. Claimant further testified that, when she did not receive the verification checklist, she submitted her rent receipt on January 14, 2015. After she received the January 20, 2015, shelter verification form and spoke to her worker who told her that the receipt was inadequate because it did not list her address, she submitted another receipt identifying her address on January 23, 2015 (Exhibits E and

F). The verification submitted on January 23, 2015, was acceptable to establish Claimant's shelter expenses. BEM 554, p. 14.

The Department representative at the hearing was not Claimant's worker and could not dispute Claimant's testimony concerning when the rent was reported. The Department argued that the worker would have included the fact that Claimant had a rent obligation in her notes of the interview, which were admitted into evidence, if rent had been reported. The purpose of the interview is to review and update the application, help the client complete application items not completed when the application was filed, and resolve any unclear or inconsistent information. BAM 115 (January 2015), p. 17. It would be unusual that the worker would ask about Claimant's heat and utility responsibility, as reflected in the notes, and not ask about rent. The worker's silence in her notes concerning the rent issue does not contradict Claimant's testimony that she was advised that a verification checklist would be issued requesting her rent documentation. A verification checklist was ultimately sent on January 20, 2015.

The evidence at the hearing supports Claimant's testimony that she reported her rent during the phone interview on January 7, 2015. When a client has failed to provide needed verifications at the interview, the worker must request the necessary verifications. BAM 115, p. 17. A client has ten days to provide the requested verification. BAM 130 (October 2014), p. 6. A negative action notice is sent when the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6. Because Claimant reported her rent during her interview and the Department did not send a request for verification in connection with processing the application, the Department did not act 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 acted in accordance with Department policy when it processed Claimant's reported change in income for the March 1, 2015, ongoing FAP benefits but did not act in accordance with Department policy when it did not include Claimant's monthly shelter expenses in the January 6, 2015, ongoing FAP budget.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED with respect to the exclusion of rent from the FAP budget for January 6, 2015, ongoing.

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. Recalculate Claimant's FAP budget for January 6, 2015, ongoing to include shelter expenses; and
2. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from January 6, 2015, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/31/2015**

ACE / tlf

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:

[REDACTED]
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