

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 15-004565
Issue No.: 3008
Case No.: ██████████
Hearing Date: April 27, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Family Independence Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits from December 1, 2014 to March 31, 2015?

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. See Exhibit 1, p. 5.
2. Claimant's FAP benefits were reduced from ██████████ in November 2014 to ██████████ for December 2014. See Exhibit 1, p. 5.
3. Effective January 1, 2015 to March 31, 2015, Claimant received a monthly FAP allotment of ██████████. See Exhibit 1, p. 5.
4. Effective April 1, 2015, ongoing, Claimant's FAP benefits increased to ██████████. See Exhibit 1, p. 5.

5. On March 20, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Preliminary matter

As a preliminary matter, Claimant's hearing request stated that her "food stamps was cut 4 months ago." See Exhibit 1, p. 3. Claimant testified that she is disputing the reduction of her FAP benefits from December 2014 to March 2015. However, before proceeding to determine if whether the Department properly calculated Claimant's FAP benefits from December 2014 to March 2015, this Administrative Law Judge (ALJ) must determine if jurisdiction exists to dispute her FAP allotment dating back to December 2014.

First, BAM 600 states that the Michigan Administrative Hearing System (MAHS) may grant a hearing if she is disputing the current level of benefits for FAP only. See BAM 600 (October 2014 and January 2015), pp. 4-5. BAM 600 further states that the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. The Department failed to present evidence that Claimant was issued a Notice of Case Action in which it informed her of the reduction of FAP benefits. Nonetheless, Claimant's hearing request (dated in March 2015) was submitted within 90 days of her FAP benefits being reduced (December 2014). See Exhibit 1, pp. 3 and 5. As such, this ALJ will review whether the Department properly calculated Claimant's FAP benefits from December 2014 to March 2015. See BAM 600, pp. 4-5.

Second, the supplemental Food Assistance benefit issuances (supplements) must be issued: when the regular FAP issuance for the current or prior month(s) is less than the group is eligible for, or for periods when the group was eligible but received no regular benefits. BAM 406 (July 2013), p. 1. These supplements are limited to underissuances in the twelve months before the month in which the earliest of the following occurred:

- The local office received a request for lost benefits from the eligible group.
- The local office discovered that a loss occurred.
- The group requested a hearing to contest a negative action which resulted in a loss.
- The group initiated court action to obtain lost benefits.

BAM 406, p. 3. Claimant's dispute with her FAP allotment from December 2014 to March 2015 is within the twelve months before the month in Claimant requested a hearing to contest a negative action which resulted in a loss and/or the local office received a request for lost benefits from the eligible group. BAM 406, p. 3. As such, BAM 406 also allows this ALJ to review Claimant's FAP benefits for the period of December 2014 to March 2015. BAM 406, p. 3.

FAP allotment

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2015), p. 35. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 38.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits from December 1, 2014 to March 31, 2015. BAM 600, pp. 35-38. The Department indicated that Claimant's reduction was the result of rental/utility expenses. However, the Department failed to present any FAP budgets in order for this ALJ to determine if the Department properly calculated Claimant's FAP benefits. As such, the Department will recalculate Claimant's FAP benefits effective December 1, 2014 to March 31, 2015.

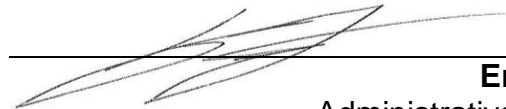
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits from December 1, 2014 to March 31, 2015.

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 December 1, 2014 to March 31, 2015, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive, but did not from December 1, 2014 to March 31, 2015; and
3. Notify Claimant in of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/28/2015**

Date Mailed: **4/28/2015**

EJF/tm

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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