

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010540
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: August 05, 2015
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Wednesday, August 5, 2015, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine the Claimant's eligibility for Food Assistance Program (FAP) based on a prior Administrative Law Judge's order?

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 a recipient of FAP benefits.
2. On May 1, 2015, Administrative Law Judge Armstrong reversed the Department and ordered them to redetermine FAP eligibility retroactive to January 2015 based on a BRIDGES ticket and issue a supplement of any FAP benefits that the Claimant was entitled to. Department Exhibit 8b-e.
3. On May 26, 2015, the Claimant reported earned income from employment. Department Exhibit 1.
4. On June 8, 2015, the Claimant was sent a notice that her FAP benefits would decrease from \$ [REDACTED] to \$ [REDACTED]. A copy of the notice was not included in the hearing packet.

5. On June 15, 2015, the Department received a hearing request from the Claimant, contesting the Department's negative action.

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.

In this case, The Claimant was a recipient of FAP benefits. On May 1, 2015, Administrative Law Judge Armstrong reversed the Department and ordered them to redetermine FAP eligibility retroactive to January 2015 based on a BRIDGES ticket and issue a supplement of any FAP benefits that the Claimant was entitled to. Department Exhibit 8b-e. On May 26, 2015, the Claimant reported earned income from employment. Department Exhibit 1. On June 8, 2015, the Claimant was sent a notice that her FAP benefits would decrease from \$█ to \$█. A copy of the notice was not included in the hearing packet. BAM 130 and 220. BEM 174, 501, and 503. RFT 246.

During the hearing, the Department stated that the BRIDGES ticket had been fixed, but the Claimant was not entitled to any additional FAP benefits. However, a manual review showed that for January 2015 and March 2015 benefits months that the housing expenses had not been properly updated. Department Exhibit 10 1-10. On August 6, 2015, the Department Caseworker stated in an email that the BRC reviewed the contested budgets for January 2015 and March 2015 and they were correct and no additional FAP benefits were entitled. Department Exhibit a. Even if she is not eligible for any additional FAP, the Department still needs to send out a written notice for the contested months to the Claimant.

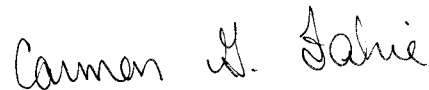
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to send out a notice and a budget to the Claimant for the contested months.

DECISION AND ORDER

Accordingly, the Department's decision **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. Initiate a redetermination of the Claimant's eligibility for FAP for the contested months of January 2015 and March 2015 based on the corrected housing expense.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.



Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/10/2015**

Date Mailed: **8/10/2015**

CGF/las

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:

