

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014760
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: September 29, 2015
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 September 29, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) monthly allotment when it took action to reduce the Claimant's benefits due to increased income?

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 the monthly FAP benefits in the amount of \$ [REDACTED].
2. The Department became aware that the Claimant had additional earned income via a computer match.
3. On June 10, 2015, the Department sent the Claimant a DHS-4635, New Hire Client Notice.

4. By the end of July 2015, the Claimant had submitted all required verifications and a new FAP budget was computed for her.
5. On July 30, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment was reduced to \$ [REDACTED]
6. On August 10, 2015, the Claimant telephoned the Department and requested a hearing to protest the reduction in her monthly FAP benefits.

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.

Bridges Eligibility Manual (BEM) 505 (2014) p. 7, provides that a standard monthly amount must be determined for each income source used in the budget. It instructs that the Department worker convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. In the Claimant's case, the uncontested testimony is that she is paid biweekly. The policy provides amounts that are received every two weeks are multiplied by 2.15 to take into account the fluctuations due to the number of scheduled pays in a month.

In this case, the Claimant challenged the accuracy of the income that her Department worker used when computing the FAP budget. A review of the evidence in this case did not indicate to this Administrative Law Judge that the Claimant had any unusual pay days that would require exclusion from the FAP budget. During the hearing, the Department personnel could not testify with any certainty which of the paystubs were used in computing the FAP budget. The Department did then testify which of the paystub were most likely used and then the Administrative Law Judge computed the Claimant's income using the Department's formula to account for an extra pay. The result was that the Claimant had \$ [REDACTED] more gross income than what was documented in the Department's FAP budget.

It is only logical that, as the Claimant's income rises her FAP benefits would be reduced. However, because the Department personnel at the hearing could not testify

with certainty as to which paycheck stubs were used when computing the FAP budget and as this Administrative Law Judge arrived at a much different figure for income, this Administrative Law Judge concludes that the evidence is insufficient to establish that the Department acted in accordance with departmental policy when determining the Claimant's monthly FAP allotment.

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 the Claimant's monthly FAP allotment.

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. Redetermine the Claimant eligibility for FAP back to August 1, 2015, and
2. Issue the Claimant any supplement she may thereafter be due and/or otherwise proceed in accordance with departmental policy if benefits have been over issued.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/1/2015**

SEH/jaf

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:

