

**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.: 15-015474
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: October 29, 2015
County: BERRIEN (DISTRICT 22)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

Following Petitioner'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, an in-person hearing was held on [REDACTED] [REDACTED] from Benton Harbor, Michigan. [REDACTED], the Claimant, appeared on his own behalf. [REDACTED] Director Drop-In Center, appeared as a witness for Claimant. The Department was represented by [REDACTED], Family Independence Manager (FIM). [REDACTED], Eligibility Specialist (ES), appeared as a witness for the Department. [REDACTED], ES, was also present.

ISSUE

Did the Department properly approve Claimant's August 2015, Food Assistance Program (FAP) allotment?

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 FAP recipient.
2. Claimant was receiving a monthly FAP allotment of \$ [REDACTED] on the 21st of the month. (Department Exhibit 3, p. 5)
3. On [REDACTED], a DHS-2240-A Mid Certification Contact Notice was issued to Claimant with a due date of [REDACTED]. (Department Exhibit 1, p. 1, Department Exhibit 2, pp. 2-4)
4. On [REDACTED], Claimant timely returned the DHS-2240-A Mid Certification Contact Notice. (Department Exhibit 2, pp. 2-4)

5. In processing the Mid Certification, the Department updated Claimant's monthly income to reflect an increase in Social Security Administration (SSA) issued benefits. (Testimony of FIM and ES)
6. Claimant's received a monthly FAP allotment of \$ [REDACTED] on [REDACTED], and [REDACTED]. (Department Exhibit 3, p. 5)
7. A computer system error occurred and Claimant did not receive any monthly FAP allotment on [REDACTED]. (Department Exhibit 3, p. 5; Department Exhibit 4, p. 6)
8. On [REDACTED], the local Department office called in a help desk ticket to resolve the error with Claimant's FAP case. (Department Exhibit 4, p. 6)
9. On [REDACTED], the local Department office asked for the help desk ticket to be escalated. (Department Exhibit 4, p. 6)
10. On [REDACTED], a monthly FAP allotment of \$ [REDACTED] was issued to Claimant. (Department Exhibit 3, p. 5)
11. On [REDACTED], a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly FAP allotment of \$ [REDACTED] effective [REDACTED]. (Department Exhibit 6, pp. 8-9)
12. On [REDACTED], Claimant's Hearing Request was received by the local Department office.

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.

The Department must periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, (July 1, 2015) p. 1.

Some FAP groups are assigned a 24-month benefit period and require only a mid-certification contact in the 12th month. BAM 210, p. 2.

If the DHS-2240A (Mid-Certification Contact Notice) is not logged in Bridges by the 10th day of the 12th month, Bridges will generate a DHS-2240B, Potential Food Assistance (FAP) Closure, to the client. This reminder notice explains that the client must return the DHS-2240A and all required verifications by the last day of the month, or the case will close. If the client fails to return a complete DHS-2240A by the last day of the 12th month, Bridges will automatically close the case. If the client reapplies, treat it as a new application and Bridges will prorate the benefits. If the completed DHS-2240A and verifications are returned by the last day of the 12th month, process the changes to ensure the client's benefits are available no later than 10 days after their normal issuance date in the 13th month of the benefit period. BAM 201, p. 11.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (July 1, 2015), pp. 1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2014), p. 12. Heat and utility expenses can also be included as allowed by policy. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility (h/u) standard. The Department now includes only the utilities for which a client is responsible to pay. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. However, FAP groups who have received a home heating credit (HHC) in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. FAP groups who have received a Low Income Home Energy Assistance Payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month are eligible for the h/u standard. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23.

The Department counts the gross amount of current Social Security Administration (SSA) issued Retirement, Survivors, and Disability Insurance (RSDI) as unearned income. BEM 503, (July 1, 2015), p. 28.

The Department counts the gross amount of current SSA issued Supplemental Security Income (SSI) as unearned income. BEM 503, (July 1, 2015), p. 32.

State SSI Payments (SSP) are issued quarterly. The Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33.

In this case, the Department explained that Claimant's FAP case was due for a Mid Certification in June 2015. On [REDACTED], a DHS-2240-A Mid Certification Contact Notice was issued to Claimant with a due date of June 1, 2015. (Department Exhibit 1, p. 1, Department Exhibit 2, pp. 2-4)

It was uncontested that Claimant timely returned the DHS-2240-A Mid Certification Contact Notice. Claimant signed the completed form May 7, 2015, and the date stamp documents that the Department received it on May 13, 2015. (Department Exhibit 2, pp. 2-4) Accordingly, there should have been plenty of time to process the Mid Certification to allow for uninterrupted FAP benefits. FAP benefits were issued to Claimant as usual on [REDACTED]. (Department Exhibit 3, p. 5)

However, the evidence establishes that a computer system error occurred regarding the August FAP issuance and the local office was unable to correct the error on their own. On August 21, 2015, the local Department office called in a help desk ticket to resolve the error with Claimant's FAP case. (Department Exhibit 4, p. 6) On August 25, 2015, the local Department office asked for the help desk ticket to be escalated. (Department Exhibit 4, p. 6)

On [REDACTED], a monthly FAP allotment of \$ [REDACTED] was issued to Claimant. (Department Exhibit 3, p. 5) On [REDACTED], a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly FAP allotment of \$177.00 effective [REDACTED]. (Department Exhibit 6, pp. 8-9)

As discussed on the record, there is no remedy this ALJ can order for the delay in FAP benefits being issued on [REDACTED], instead of [REDACTED]. However, the FAP budget was reviewed for [REDACTED] because there was a change in the monthly FAP allotment.

The Department explained that the reduction in Claimant's FAP monthly allotment was due to updating his income to reflect an increase in SSA issued benefits. As discussed on the record, the Department's hearing summary incorrectly indicated Claimant's income of \$ [REDACTED] was only SSI. Claimant's monthly unearned income does total \$ [REDACTED] however, it is comprised of \$ [REDACTED] RSDI, \$ [REDACTED] SSI, and \$ [REDACTED] SSP. (Testimony of FIM, ES, and Claimant) Therefore, the Department correctly included the total unearned income of \$ [REDACTED] in the FAP budget. No other error(s) were found when the remainder of the FAP budget was reviewed with the parties during the hearing proceedings. Overall, the evidence establishes that while there was a several day delay to resolve the computer system error, the Department properly issued Claimant a monthly FAP allotment of \$ [REDACTED] for [REDACTED]

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 approved Claimant's [REDACTED], FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

