

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

IN THE MATTER OF:

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

Reg. No.: 15-000542
Issue No.: 3008
Case No.: ██████████
Hearing Date: February 12, 2015
County: Oakland (02-Madison Hts)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 February 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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 August 20, 2014, Claimant applied for FAP benefits.
2. On August 25, 2014, the Department sent Claimant a notice of case action informing her that her FAP application had been denied effective August 20, 2014.
3. On September 26, 2014, the Department sent Claimant a notice of case action informing her that her FAP application had been approved.
4. On October 8, 2014, the Department sent Claimant a notice of case action informing her that her FAP benefits had been increased.
5. On October 17, 2014, Claimant requested a hearing to protest the amount of her FAP benefits.

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.

At the hearing, Claimant objected to the acceptance of the Department's offering of exhibits. The objection was overruled as being not actionable.

Based on Claimant's FAP application, the Department read the application as Claimant having listed three jobs. Claimant testified that two of the jobs were actually one in the same. Claimant provided hair and beauty services for various clients and occasionally sold beauty products to the same clients. Claimant testified that income from her services were combined with income from the sale of beauty products and that the two "jobs" were, in fact, one job.

Claimant testified that she provided the Department with documentation of her rent and a copy of her lease on August 20, 2014, at the same time that she applied for benefits.

According to the Department, on October 7, 2014, Claimant called the Department to complain that her rent had not been included in her FAP budget. The Department's hearing summary states that Claimant's rent was not documented until later that same day, October 7, 2014.

This Administrative Law Judge finds Claimant's testimony to be credible because of the number of changes made to Claimant's FAP benefits by the Department.

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 .
- did not act in accordance with Department policy when it failed to include Claimant's correct rent expense in the FAP budget.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .


DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.**
 REVERSED.
 AFFIRMED IN PART with respect to _____ and **REVERSED IN PART** with respect to _____

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. Reregister and process Claimant's August 20, 2014, FAP application and supplement for any missed benefits.



Michael J. Bennane
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/25/2015**

Date Mailed: **2/25/2015**

MJB / pf

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]
[REDACTED]
[REDACTED]
[REDACTED]