

**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.: 15-015475
Issue No.: 3004
Agency Case No.: [REDACTED]
Hearing Date: October 15, 2015
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, a telephone hearing was held on October 15, 2015, from Detroit, Michigan. The Petitioner was represented by Claimant. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process the Claimant's reduction of income when issuing 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. The Claimant was an ongoing recipient of FAP benefits.
2. In February 2015 the Claimant received her last pay as a home health provider and her income decreased. The Claimant called her worker on or about [REDACTED] to report the decrease and change in income.
3. The Department issued a Notice of Case Action on [REDACTED], increasing the Claimant's FAP benefits effective [REDACTED]. Exhibit C
4. The Claimant requested a hearing on [REDACTED] protesting the Department's actions.

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 Department processed a change to the Claimant's FAP benefits pursuant to a change report filed with the Department on [REDACTED]. The change resulted in a decrease in earned income and resulted in an increase in Claimant's FAP benefits as of [REDACTED]. The Department issued a Notice of Case Action on [REDACTED] [REDACTED] increasing the Claimant's FAP to \$185 per month. Exhibit C

The Claimant credibly testified that she advised the Department in March 2015, on or about [REDACTED], by a telephone call to her caseworker that her income had decreased and her last check was issued at the end of February 2015. The Claimant was a home health care provider who provides care to her disabled daughter, and prior to the income decrease, to another client. Her income for care of the other client ended in February 2015. The Claimant discussed the change with her caseworker. The Department's evidence did not indicate that it asked the Claimant to verify the decrease in income, or that it sent a verification request to the Claimant for loss of employment.

Thereafter, the Claimant had to call the caseworker's supervisor and finally had to call the Program Manager so that the reported change in income was processed. The Department provided evidence that the Claimant filed a change report on [REDACTED] and based upon the change report, the Department processed a FAP increase effective [REDACTED]. Exhibit A and C. No verifications regarding income or loss of employment were presented by the Department. BAM 130 requires that verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130 (July 1, 2015) p. 1

The Department did not present any testimony by caseworkers or other Department personnel who may have dealt with, or discussed the matter with the Claimant. In order to determine the effective date of the change or increase in benefits, it first must be determined when the reporting occurred. In this case, based upon the evidence presented and the Claimant's credible testimony regarding the reporting of the change, it is determined that the Claimant's reporting of her income decrease was timely reported to the Department when she called her caseworker and reported the change on [REDACTED]. Thereafter, in accordance with Department policy, the Department was to act on the change which would affect a FAP benefit increase due the decrease in income.

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when either:

- The department is made aware of or the client reports a change in income that will affect eligibility or benefit level.

A reported change results in the need to convert income to or from a standard monthly amount. BEM 505 (July 1, 2015) p. 9

Income Decrease

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. BEM 505, p. 10

FAP Only

Act on a change reported by means other than a tape match within 10 days of becoming aware of the change.

Benefit Increases: Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220 (October 1, 2015) p. 7

The evidence and testimony of the Claimant, which is deemed credible, requires a determination that the Department did not timely process the FAP benefit change in accordance with Department policy. Changes are not required to be in writing, and thus contacting a caseworker to report a change by phone is acceptable with regard to Department policy requirements. The Department's evidence did not rebut the Claimant's testimony that she reported her change in income by phone on [REDACTED], [REDACTED]. Also persuasive, was the Claimant's efforts made after the change in benefits did

not occur, requiring that she contact the caseworker supervisor and Program Manager. Upon becoming aware of the reported change received on [REDACTED], the Department was required either to process a change or seek verification of the change, if necessary. It also is reasonable that the Claimant (who had lost almost half her earnings) would advise the Department promptly to affect a FAP benefit increase. Based upon the facts and testimony presented, it is determined that the Department was required to process the FAP benefit increase effective [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 did not act in accordance with Department policy when it failed to process the Claimant's reported income decrease in accordance with Department policy. The change to increase the Claimant's FAP benefits due to decrease in income was required to be effective [REDACTED]

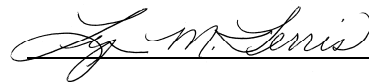
DECISION AND ORDER

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. The Department shall process a FAP benefit increase effective [REDACTED] based upon the current level of FAP benefit issuance received by the Claimant as a result of a loss of employment income.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits she was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/16/2015**

Date Mailed: **10/16/2015**

LMF / hw

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:

