

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324006
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 3, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 3, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Assistance Payment Worker.

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. Claimant was an ongoing recipient of FAP benefits.
2. In connection with Claimant's receipt of Supplemental Security Insurance (SSI) benefits, the Department recalculated Claimant's FAP budget.
3. On January 10, 2013, the Department sent Claimant a Notice of Case Action advising him that his monthly FAP benefits would be reduced to \$119 effective February 1, 2013.

4. On January 17, 2013, Claimant filed a request for hearing, disputing the Department's calculation of his 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), and Department of Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Claimant requested a hearing on January 17, 2013, in connection with the January 10, 2013 Notice of Case Action notifying him that his monthly FAP benefits would be reduced to \$119 beginning February 1, 2013. At the hearing, Claimant also expressed concerns because his FAP case had closed effective February 28, 2013. The Department explained that Claimant's FAP case had closed because he had failed to complete a redetermination that was due after he requested the hearing on January 17, 2013. Claimant was advised that because his request for hearing was filed prior to the FAP closure and was tied to the January 17, 2013 Notice of Case Action which notified him of the reduction in his FAP benefits, the issue presented at the hearing was limited to the reduction in FAP benefits since the action closing his case had not taken effect at the time he requested the hearing. Claimant was advised to request a hearing concerning the FAP case closure if he wished to dispute that Department action. The hearing proceeded with respect to the reduction of Claimant's FAP benefits for the month of February 2013.

At the hearing, the Department testified that Claimant's decreased FAP benefits were due to an increase in his SSI benefits. The Department produced a FAP budget showing the calculation of Claimant's monthly FAP benefits for February 1, 2013, ongoing. Claimant verified that he received monthly SSI benefits of \$710 beginning February 1, 2013. The unearned income on the budget did not include any State SSI Payment (SSP) benefits. See BEM 660 (November 1, 2012). Although he admitted that he had received an SSP benefit of \$28, the Department could not verify that this was an ongoing payment for Claimant. Thus, SSP was properly excluded from calculation of Claimant's unearned income in this case. Claimant also verified that he was the sole member of his FAP group and that he had not submitted any housing or medical expenses to the Department. A review of the FAP budget and the Notice of Case Action shows that the Department properly applied the \$148 standard deduction applicable to his FAP group size of one and the \$575 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 1, 2012), p 1; BEM 554 (October 1, 2012), pp 11-12.


A review of the FAP budget based on the information before the Department prior to the February 1, 2013 effective date of the FAP benefit decrease shows that the Department acted in accordance with Department policy when it concluded that Claimant had monthly net income of \$268 and was eligible for monthly FAP benefits of \$119 effective February 1, 2013. BEM 556 (October 1, 2011); RFT 260 (December 1, 2012), p 9.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when calculating Claimant's FAP budget.
 did not act properly when .

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/9/2013

Date Mailed: 4/9/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

201324006/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

