

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

IN THE MATTER OF:

██████████
████████████████████
██

Reg. No.: 2013-24910
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 26, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 hearing was held on June 26, 2013, in Walled Lake, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included ██████████, FIM.

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 received FAP benefits in the amount of \$44.00, effective January 1, 2013.
2. Claimant resided in subsidized housing, which provided five meals per week.
3. Claimant requested a hearing on January 17, 2013, to protest the amount of food benefits.
4. At the hearing, the Department did not substantiate how it reached a medical deduction figure of \$217.00 and a rental expense of \$283.00.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the 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 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Adjusted gross income in a household of one is determined by subtracting the standard amount of \$148.00 (RFT 255). Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter and medical expenses, if any. BEM 554

In the present case, Claimant received FAP benefits in the amount of \$44.00, effective January 1, 2013. Claimant resided in subsidized housing, which provided five meals per week to Claimant. At the hearing, the Department did not substantiate how it reached a medical deduction figure of \$217.00 (Exhibit 4) and a rental expense figure of \$283.00 (Exhibit 5). The Department argued, however, that Claimant was not entitled to FAP benefits because the subsidized housing in which she resides provides meals to the residents. A person is not eligible for FAP benefits if she resides in an institution which provides the majority of her meals. (BEM 212, p. 6) In this case, the majority of Claimant's meals are not provided by the subsidized housing; rather, only five meals per week are provided. Therefore, Claimant was eligible for FAP benefits.

In addition, since the Department did not substantiate at the hearing how it reached its medical and housing expense figures to calculate Claimant's FAP benefits, and Claimant showed different expense figures at the hearing, it cannot be concluded that the Department was correct in calculating Claimant's FAP benefits.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly calculated Claimant's FAP benefits.

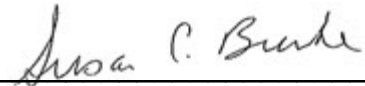
DECISION AND ORDER

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 not act properly.

Accordingly, the Department's FAP calculation decision is REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate recalculating of Claimant's FAP benefits, effective January 1, 2013 and ongoing.
2. Issue FAP supplements for any increased payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 27, 2013

Date Mailed: June 27, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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