

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-48698
Issue No.: 3003
Case No.: ██████████
Hearing Date: June 19, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's daughter and translator. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective April 1, 2013, ongoing?

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 applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On February 26, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$135 effective April 1, 2013, ongoing. Exhibit 3.

3. On May 14, 2013, Claimant filed a hearing request, protesting his FAP allotment. Exhibit 1.

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.

As a preliminary matter, the Department presented as evidence Claimant's Eligibility Summary which indicated Claimant's FAP benefits for the months of February and March 2013 was \$434. Exhibit 2. Claimant was not disputing those benefits months. Claimant was only disputing his FAP benefits for April 1, 2013, ongoing, in the amount of \$135.

Earned income calculation

At the hearing, the FAP budget for the benefit period of June 2013 was reviewed. Claimant was disputing, though, his benefits for April 1, 2013, ongoing. Nevertheless, the June 2013 FAP budget is identical to the April 2013 budget as shown in the February 26, 2013 Notice of Case Action. See Exhibit 3. Thus, the hearing proceeded with reviewing the June 2013 FAP budget.

It was not disputed that the certified group size was six. The Department calculated the FAP group's total earned income to be \$3,668. The Department presented as evidence Claimant's and his son's Employment Budget – Summary. See Exhibit 2. This document indicated that Claimant's monthly gross earned income is \$2,292. Exhibit 2. This document also indicated that Claimant's son's (who is a FAP group member) monthly gross earned income is \$1,376. Exhibit 2. The Department testified that it calculated both monthly gross incomes based on Claimant's recently submitted redetermination. However, the Department did not provide any pay stubs or the redetermination at the hearing. The Department then added both incomes together, which resulted in a total gross earned income of \$3,668 (\$2,292 plus \$1,376). See Exhibit 2. Claimant disagreed with the calculation of the gross income.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a

standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4.

Claimant testified that his monthly gross income was \$1,600. Moreover, Claimant testified that his son earns \$8/hr, working 40 hours a week, and is paid weekly. Using the conversion for weekly income as outlined in BEM 505; Claimant's son standard monthly amount would be \$1,376 (\$320 weekly pay times 4.3). BEM 505, p. 6. This is the same gross earned income amount the Department calculated for Claimant's son. Claimant did not bring in any pay stubs or documentation showing his monthly gross income.

Based on the foregoing information and evidence, the Department properly calculated the FAP groups total earned income of \$3,668. BEM 505, pp. 1-12. The Department provided credible evidence by providing the Employment Budget document, which showed how the Department calculated the earned incomes. See Exhibit 2. Claimant did not provide any documentation showing that his earned income was \$1,600. Moreover, Claimant's testimony indicated that the Department properly calculated his son's earned income as well.

Because the Department properly calculated the total gross countable earned income to be \$3,668, the Department then reduced that amount by a 20 percent earned income deduction. BEM 550 (February 2012), p. 1. Twenty percent of \$3,668 is \$734, which results in a post earned income of \$2,934. The Department then applied the \$213 standard deduction applicable to Claimant's group size of six. BEM 550, p. 1; RFT 255 (October 2012), p. 1. This results in an adjusted gross income of \$2,721 (\$2,934 post earned income minus \$213 standard deduction).

Shelter expenses

Claimant testified that the FAP group does not contain any senior/disabled/disabled veteran (SDV) members. For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. BEM 554 (October 2012), p. 1; RFT 255, p. 1.

RFT 255 indicates that the standard shelter maximum for non-SDV members is \$469. RFT 255, p. 1.

Claimant's monthly housing expense is \$700, which Claimant did not dispute. See Exhibit 2. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,275. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,721 adjusted gross income. Fifty percent of the adjusted gross income is \$1,360. However, when the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,275 shelter income minus \$1,360 adjusted gross income), this amount is found to be negative because the total shelter amount is greater than half of the adjusted gross income. See BEM 556, pp. 1-6. Thus, the Claimant is not entitled to an excess shelter deduction.

Finally, the FAP group's net income remains at \$2,721, due to no allowable shelter deductions. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$135, the same amount calculated by the Department. RFT 260 (December 2012), p. 24. Thus, the Department properly calculated Claimant's FAP Budget in accordance with department policy for the effective benefit period of April 1, 2013, ongoing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 24, 2013

Date Mailed: June 24, 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 affect the substantial rights of the claimant:
 - 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

EJF/cl

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