

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201338295  
Issue No.: 3015  
Case No.: [REDACTED]  
Hearing Date: May 1, 2013  
County: Jackson

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 May 1, 2013, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's boyfriend/group member). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case due to excess income?

**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 with a monthly allotment of \$210.00 and a group size of 3.
2. On February 28, 2013, the Department received Claimant's completed Semi-Annual Contact Report (DHS-1046) which indicated that Claimant had an address change and a reduced monthly rental obligation.
3. On March 20, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case due to excess income effective May 1, 2013.

4. On March 27, 2013, Claimant filed a hearing request, challenging the Department's closure of her FAP case.

### **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 1997 AACR 400.3001-3015.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505. Amounts that are received twice a month are added. BEM 505. But the Department should not convert income for the month income starts or stops if a full month's income is not expected in that month. BEM 505. The Department will use actual income received or income expected to be received in these months. BEM 505.

BEM 550 describes the Department's income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior<sup>1</sup>, disabled person<sup>2</sup> or a veteran member of that group. BEM 550. A non categorically

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<sup>1</sup> A "senior" is a person at least 60 years old. BEM 550 p 1.

<sup>2</sup> A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) medicaid program which requires a disability determination by

eligible Senior/Disabled/Veteran (SDV) FAP group<sup>3</sup> must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550. Reference Table (RFT) 250 determines the monthly income limits for FAP based on household group size.

The Department will budget the entire amount of earned and unearned countable income. BEM 550. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups **with** one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department **must** verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall **not** budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department may **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued **only** if the expense could **not** be verified within 30 days of the application and the local office was at fault. BEM 554.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554. The Department will not prorate the shelter expense even if the expense is shared. BEM 554. Shelter expenses are allowed when billed. BEM 554. The expenses do **not** have to be paid to be allowed. BEM 554.

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MRT or Social Security Administration; (3) Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

<sup>3</sup> An SDV FAP group is one which has an SDV member. BEM 550 p 1.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554. The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed. BEM 554.

The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc. BEM 554. The Department does not prorate the h/u standard even if the heating/cooling expense is shared. BEM 554. **FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554.** The Department does not require verification of the other utility standards, including the cooling expense, if the household is already eligible for the h/u standard. BEM 554.

Effective March 1, 2010, all FAP groups receive the h/u standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). BEM 554. This LIHEAP benefit allows all FAP cases to receive the h/u standard, even if they do not have the responsibility to pay and do not provide verification. BEM 554.

A FAP group which has a heating, cooling or air conditioning expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments, must use the h/u standard. BEM 554.

Here, Claimant requested a hearing because the Department closed her FAP case due to excess income. The closure occurred after Claimant turned in a Semi-Annual Contact Report (DHS-1046), which indicated that her monthly rent expense was reduced from \$639.00 to \$300.00. When the Department rebudgeted and recalculated Claimant's FAP, it resulted in a closure due to excess income. The Department included all necessary and relevant budgets in the record.

Claimant did not dispute the Department's calculations regarding her monthly income and group size. Rather, Claimant indicated that the Department failed to include certain monthly expenses for utilities, etc., when it recalculated and then closed her FAP case.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record reveals that Claimant was eligible for the monthly maximum heat and utility standard of \$575.00. According to BEM 554 cited above, FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Thus, the Department was not required to use other utility expenses. Claimant was receiving monthly net earned income in the amount of \$1,894.00 at the time relevant to this matter. A claimant with a group size of 3 (three) has a maximum net income limit of \$1,591.00. RFT 250. Because Claimant's net income of \$1,894.00 exceeded the allowable 100% net income limit of \$1,591.00, Claimant is not entitled to FAP benefits for the time period in question.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's FAP case due to excess income.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly.

Accordingly, the Department's FAP decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: May 2, 2013

Date Mailed: May 3, 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.

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

CAP/aca

cc:

