

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

IN THE MATTER OF:

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██████████████████████████████

Reg. No.: 2013-54132
Issue No.: 3019
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (82-18)

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 July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Assistance Payments Worker.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits effective July 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 was an ongoing recipient of FAP benefits. Exhibit 1.
2. On May 1, 2013, the Department sent Claimant a Semi-Annual Contact Report (DHS-1046), which was due back by June 1, 2013. Exhibit 1.
3. On June 3, 2013, Claimant submitted the Semi-Annual Contact Report. See Exhibit 1.
4. On June 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were reduced to the amount of \$166 effective July 1, 2013, ongoing. Exhibit 1.

5. On June 19, 2013, Claimant filed a hearing request, disputing the Department's actions. Exhibit 1.

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 Mich Admin Code, R 400.3001 through R 400.3015.

In this case, Claimant was an ongoing recipient of FAP benefits. Exhibit 1. On May 1, 2013, the Department sent Claimant a Semi-Annual Contact Report (DHS-1046), which was due back by June 1, 2013. Exhibit 1. On June 3, 2013, Claimant submitted the Semi-Annual Contact Report. See Exhibit 1. On June 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were reduced to the amount of \$166 effective July 1, 2013, ongoing. Exhibit 1.

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.

At the hearing, it was not disputed that Claimant had a group size of three and all group members were non-Senior/Disabled/Veteran (SDV). The Department presented the July 2013 FAP budget to review for the hearing. See Exhibit 1. The Department

calculated the FAP group's total earned income to be \$2,242. See Exhibit 1. The Department stated that Claimant reported new income for her husband in the Semi-Annual Contact Report and provided pay stubs. See Exhibit 1. However, Claimant reported no new changes for her wages and did not provide any pay stubs. See Exhibit 1. The Semi-Annual Contact Report specifically states that if the income has changed, the client is to include current proof of earnings with the submitted Semi-Annual Contact Report. See Exhibit 1. Claimant failed to do that with her own reported income. Nevertheless, prior to receiving the Semi-Annual Contact Report, Claimant's income was budgeted for \$1,546. See Exhibit 1. The Department used this prior amount and combined it with the husband's new income. It appears that the Department used the husband's last earnings statement where he was paid on May 3, 2013. See Exhibit 1. The earning's statement indicates the husband worked 32.25 hours biweekly, was paid biweekly, and earned a gross income of \$322.50. Using the conversion for biweekly income as outlined in BEM 505; Claimant's husband's standard monthly amount would be \$693 (\$322.50 weekly pay times 2.15). BEM 505, p. 6. When Claimant's and her husband's amounts are combined together, this results in a total earned income of \$2,239 (\$1,546 Claimant's total plus \$693 husband's total).

Claimant testified that this amount is incorrect. Claimant testified that she earns \$11/hr., is paid biweekly, and earns approximately \$425 to \$525 biweekly. Claimant also testified that her husband earns \$10/hr., is paid biweekly, and earns approximately \$295 biweekly. The Department testified that, due to Claimant not providing new paystubs, it based Claimant's income on her previous budget. The Department testified this would involve using her hourly income of \$11/hr., paid biweekly, and working 65 to 70 hours.

Based on the foregoing information, the Department properly calculated Claimant's and her husband's earned income. First, the Department properly calculated Claimant's income as Claimant failed to provide any updated proofs. The Department used the best available information it had to calculate her income from previous budgets. BAM 130 (May 2012), p. 3. Second, even though the Department was unable to specifically state the calculation of Claimant's husband's earnings, a review of the paystubs indicates that the Department made an appropriate calculation of Claimant's husband's earned income. The remaining paystubs indicated that Claimant was paid biweekly in April, worked 32.50 to 38.75 biweekly hours, and earned between \$325 and \$387.50. See Exhibit 1.

The Department reduced the \$2,242 earned income amount by a 20 percent earned income deduction. BEM 550 (February 2012), p. 1. Twenty percent of \$2,242 is \$449, which results in a post earned income of \$1,793. The Department then applied the \$148 standard deduction applicable to Claimant's group size of three. BEM 550, p. 1; RFT 255 (October 2012), p. 1. Once the Department subtracts the \$148 standard deduction, it results in an adjusted gross income of \$1,645. See Exhibit 1.

Then, Claimant testified that the FAP group does not contain any SDV members. For groups with no SDV members, the Department uses the excess shelter maximum in

RFT 255. BEM 554, 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 \$691.88, which Claimant did not dispute. 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 \$1,267. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,645 adjusted gross income. Fifty percent of the adjusted gross income is \$822. When the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,267 shelter income minus \$822 adjusted gross income), this amount is found to be \$445. The Department subtracts the \$1,645 adjusted gross income from the \$445 excess shelter deduction, which results in a net income of \$1,200. See Exhibit 1.

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 \$166, the same amount calculated by the Department. RFT 260 (December 2012), p. 11. Thus, the Department properly calculated Claimant's FAP Budget in accordance with Department policy for the effective benefit period of July 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 on the record, finds that the Department did act properly when it calculated Claimant's FAP budget effective July 1, 2013, ongoing.

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



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

Date Signed: July 26, 2013

Date Mailed: July 26, 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/pf

cc: [REDACTED]
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