

**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.: 2013-55255
Issue No.: 3003
Case No.: ██████████
Hearing Date: July 29, 2013
County: Wayne (55)

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 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate 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. See Exhibit 1.
2. Claimant's FAP benefits decreased due to an increase in his household income.
3. On June 6, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved in the amount of \$433 effective July 1, 2013, ongoing. Exhibit 1.
4. On June 17, 2013, Claimant filed a hearing request, protesting 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.

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.

It was not disputed that the certified group size was five. The July 2013 FAP budget was reviewed for the hearing. See Exhibit 1. The Department calculated Claimant's gross earned income to be \$1,892, which Claimant did not dispute. Because the Department properly calculated the total gross countable earned income to be \$1,892, the Department then reduced that amount by a 20 percent earned income deduction. BEM 550 (February 2012), p. 1. Twenty percent of \$1,892 is \$379, which results in a post earned income of \$1,513. The Department then applied the \$186 standard deduction applicable to Claimant's group size of five. BEM 550, p. 1; RFT 255 (October 2012), p. 1. This results in an adjusted gross income of \$1,327 (\$1,513 post earned income minus \$186 standard deduction).

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.

It should be noted that the Department did not present a shelter expense budget. Nevertheless, Claimant's monthly housing cost is \$215.72, which the Department testified consisted of Claimant's annual tax and home insurance. See Notice of Case Action, Exhibit 1. Claimant did not dispute this amount. 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.

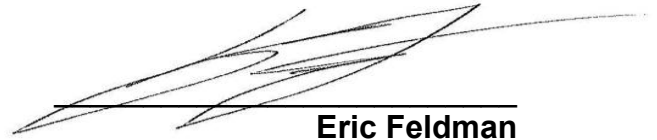
Furthermore, the total shelter obligation is calculated by adding Claimant's housing cost to the utility credit; this amount is found to be \$790.72. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,327 adjusted gross income. Fifty percent of the adjusted gross income is \$663.50. When the Department subtracts the total shelter amount from fifty percent of the gross income (\$790.72 shelter income minus \$663.50 adjusted gross income), the total excess shelter deduction is \$128. See BEM 556 (October 2011), pp. 1-6.

Finally, the Department subtracts the excess shelter deduction from the adjusted gross income, which results in a total net income of \$1,199 (\$1,327 adjusted gross income minus \$128 excess shelter deduction). 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 \$433, 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 properly calculated Claimant's FAP benefits in the amount of \$433 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: August 6, 2013

Date Mailed: August 6, 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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