

**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.: 2013-55894
Issue No.: 3019
Case No.: ██████████
Hearing Date: July 31, 2013
County: Oakland (3)

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 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistant Payment Worker Supervisor.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective August 1, 2013, ongoing, 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 was an ongoing recipient of FAP benefits.
2. On June 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective August 1, 2013, ongoing, due to excess net income. Exhibit 1.
3. On June 27, 2013, Claimant filed a hearing request, protesting the Department's action. 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 non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (February 2012), p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1. RFT 250, Column B, Monthly Net Income (100%) Limit for a group size four is \$1,921. RFT 250 (October 2012), p. 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.

At the hearing, it was not disputed that Claimant had a group size of four and all group members were non-Senior/Disabled/Veteran (SDV). The Department presented the August 2013 FAP budget to review for the hearing. See Exhibit 1. The Department calculated the FAP groups total earned income to be \$1,144. See Exhibit 1. The Department testified that it determined this amount based on Claimant's daughter's biweekly pay stubs in the amounts of \$569 and \$495. The Department adds these two amounts together to obtain an average biweekly pay, which results in the amount of \$532. Then, using the conversion for biweekly income as outlined in BEM 505; Claimant's standard monthly amount would be \$1144 (\$532 biweekly pay times 2.15). BEM 505, p. 6. Claimant agreed to this amount.

Moreover, the Department counts the gross amount as unearned income regarding unemployment benefits. BEM 503 (May 2013) p. 26. Also, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3.

The Department testified that Claimant's gross countable unearned income is \$1,962. The Department based this calculation on both Claimant's unemployment benefits and

child support payments. The Department testified that Claimant received \$724 in biweekly unemployment benefits. Claimant did not dispute this amount. Using the conversion for biweekly income as outlined in BEM 505; Claimant's standard monthly amount would be \$1556 (\$724 biweekly pay times 2.15). BEM 505, p. 6. The Department then testified that Claimant received a consistent amount of \$287.03 in child support payments. Thus, the Department testified that it obtained a total unearned income amount of \$1843.03 (\$1,556 unemployment benefits plus \$287.03 child support payments). However, the August 2013 FAP budget indicated a total countable unearned income of \$1,962, which is approximately a \$119 difference. See Exhibit 1.

Nevertheless, the Department testified that is harmless error as Claimant's net income would still be above the limits.

Moreover, the August 2013 FAP budget indicated a total income amount of \$3,106 (\$1,144 earned income plus \$1,962 unearned income). The Department then reduced the \$1,144 earned income amount by a 20 percent earned income deduction. BEM 550, p. 1. Twenty percent of \$1,144 is \$229, which results in a post-earned income of \$2,877 (\$3,106 total income amount minus \$229 earned income deduction). The Department then applied the \$159 standard deduction applicable to Claimant's group size of four. BEM 550, p. 1; RFT 255 (October 2012), p. 1. Once the Department subtracts the \$159 standard deduction, this results in an adjusted gross income of \$2,718. 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.

The Department testified that Claimant's monthly housing expense is \$1,450. See Exhibit 1. 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 \$2,025. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,718 adjusted gross income. Fifty percent of the adjusted gross income is \$1,359. When the Department subtracts the total shelter amount from fifty percent of the gross income (\$2,025 shelter income minus \$1,359 adjusted gross income), this amount is found to be \$666. Because there are no SDV members, the \$666 is over the maximum limit, and Claimant is only entitled to an excess shelter deduction of \$469. See RFT 255, p. 1. It should be noted that Claimant testified that her monthly housing expenses is \$1,550. However, Claimant would still be entitled to an excess shelter deduction of \$469.

The Department subtracts the \$2,718 adjusted gross income from the \$469 excess shelter deduction, which results in a net income of \$2,249. See Exhibit 1. RFT 250, Column B, Monthly Net Income (100%) Limit for a group size four is \$1,921. RFT 250 (October 2012), p. 1. Thus, the \$2,249 net income limit exceeds this amount. Moreover, as previously discussed, the Department erred in its unearned income calculation by being over \$119. Nevertheless, Claimant is still over the net income limit if the Department applies the \$119 difference. Thus, the Department properly calculated Claimant's FAP Budget in accordance with Department policy for the effective benefit period of August 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 closed Claimant's FAP benefits effective August 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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