

**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.: 2013-56286
Issue No.: 3003
Case No.: ██████████
Hearing Date: August 1, 2013
County: Macomb (20)

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 August 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 August 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.
2. On June 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$53 effective August 1, 2013, ongoing. Exhibit 1.
3. On July 5, 2013, Claimant filed a hearing request, protesting her 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.

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 counts the gross amount as unearned income regarding Retirement, Survivors and Disability Insurance (RSDI) payments. BEM 503 (May 2013), p. 21.

At the hearing, the FAP budget for the benefit period of August 2013 was reviewed. See Exhibit 1. It was not disputed that the certified group size is one and that she is a senior/disabled/disabled veteran (SDV) member. The Department calculated Claimant's unearned income to be \$990 from her RSDI benefits. However, Claimant testified that her gross RSDI income is \$981. This amount is also confirmed by the Department's own SOLQ exhibit. See Exhibit 1. The Department did not note during the hearing that the remaining \$9 could have been allocated from Claimant's previous FAP budget. The Department provided Claimant's previous FAP budget which indicated a total unearned income of \$9. See Exhibit 1. But, the Department was unable to testify or provide evidence regarding the source of the additional \$9. Based on this information, the Department improperly calculated Claimant's gross unearned income.

Nevertheless, the Department did properly apply the \$148 standard deduction applicable to Claimant's group size of one. BEM 550 (February 2012), p. 1; RFT 255 (October 2012), p. 1. This results in an adjusted gross income of \$842 (\$990 post earned income minus \$148 standard deduction).

Claimant is a SDV member, thus, she qualifies for excess shelter deductions and is not subject to a maximum shelter deduction. BEM 554 (October 2012), p. 1; See BEM 550, pp. 1-5. It should be noted that a shelter budget was not provided at the hearing. However, the Department did present Claimant's Notice of Case Action, which did

indicate Claimant's monthly housing expenses was \$200. See Exhibit 1. Claimant disagreed with this amount. She testified that her monthly housing expenses changed to approximately \$435. But, Claimant testified that she never reported this change. Based on this information, the Department properly applied the \$200 in housing expenses because Claimant failed to report a change. See BAM 105 (March 2013), pp. 7-8.

Based on this information above, the Department properly calculated Claimant's excess shelter deduction to be \$354. 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 \$775. Then, the Department subtracts the total shelter amount from fifty percent of the \$842 adjusted gross income. Fifty percent of the adjusted gross income is \$421. Then, the Department subtracts the total shelter amount from fifty percent of the gross income (\$775 shelter income minus \$421 one half of the adjusted gross income); this amount is found to be \$354. But, due to the unearned income being incorrect, this will result in a change to Claimant's excess shelter deduction when it is recalculated.

Finally, the Department subtracts the adjusted gross income from the shelter deduction, which results in a net income limit of \$488. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department determined that Claimant's FAP benefit issuance is found to be \$53. RFT 260 (December 2012), p. 5.

Based on the foregoing information and evidence, the Department will have to recalculate Claimant's FAP Budget for the effective benefit period of August 1, 2013, ongoing.

DECISION AND ORDER

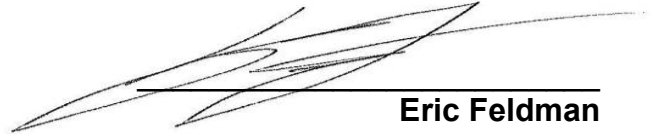
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly did not act properly.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating the FAP budget for August 1, 2013, ongoing, in accordance with Department policy;

2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2013, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

cc: [REDACTED]
[REDACTED]
[REDACTED]
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