

**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.: 2013-59427
Issue No.: 3002
Case No.: ██████████
Hearing Date: August 21, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on August 21, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits?

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. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 1).
3. On July 10, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$41.00 effective August 1, 2013. (Exhibit 3).
4. Claimant did not agree with the Department's calculation of her FAP benefits.

5. On July 16, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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. Rule 400.3001 through Rule 400.3015.

Additionally, on July 10, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$41.00 effective August 1, 2013. (Exhibit 3). Claimant disputed this amount.

The gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (May 2013), p. 21. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions and the gross amount received is also included in the calculation of unearned income for FAP budgeting. BEM 503, p. 20.

At the hearing, the budget from the FAP EDG Net Income Results for the August 2013 benefit period was reviewed. (Exhibit 4).

The Department concluded that Claimant had unearned income of \$1,110.00 which came from RSDI benefits and a General Motors (GM) Pension. The Department testified that in calculating Claimant's monthly unearned income, it considered Claimant's gross monthly RSDI of \$721.00 and her Pension Benefit from GM in the amount of \$386.69. The Department presented an SOLQ and letter from GM verifying that the amounts relied on were accurate. (Exhibits 1 and 2). Claimant also confirmed the amounts used by the Department.

The budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of one and budget summary from the Notice of Case Action shows that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibit 4);RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. The Department determined Claimant's housing costs were \$314.03, which Claimant confirmed. (Exhibit 3).

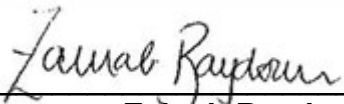
Because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. At the time of the hearing, Claimant had not submitted any additional medical expenses, so a medical deduction was not applied.

The Department testified that prior to August 1, 2013, the Department was incorrectly applying a medical expense deduction to Claimant's FAP budget for her insurance premium in the amount of \$104.90, which is why her FAP benefits decreased beginning August 1, 2013. The Department stated that because that premium is being paid by the State of Michigan, Claimant is not entitled to have it applied towards her medical expense deduction on her monthly FAP budget. The Department presented the SOLQ in support of its testimony and Claimant verified that her insurance premium is being billed to the State. (Exhibit 2).

As such, the Department did act in accordance with Department policy when it calculated Claimant's FAP benefits.

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 in accordance with Department policy when it calculated Claimant's FAP benefits effective August 1, 2013. Accordingly, the Department's decision with respect to FAP is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 30, 2013

Date Mailed: August 30, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;

- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ZB/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]