

**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.: 2014-14042
Issue No(s): 1000; 2000; 3008
Case No.: ██████████
Hearing Date: December 18, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Assistant Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective November 1, 2013, ongoing, in the amount of \$312?

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 is an ongoing recipient of FAP benefits.
2. On October 30, 2013, Claimant submitted a Semi-Annual Contact (DHS-1046) online, which included attachments such as a quit claim deed, property taxes, pay stubs, and a property transfer affidavit. See Exhibit 1.
3. The Department processed the submitted Semi-Annual and on October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$312 effective November 1, 2013, ongoing. See Exhibit 1.

4. On November 12, 2013, Claimant filed a hearing request, protesting her FAP allotment, cash benefits, and Medical Assistance (MA) benefits. See 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Preliminary matter

First, as part of the hearing packet, the Department included a Verification Checklist (VCL) sent to the Claimant. See Exhibit 1. On November 18, 2013, the Department sent Claimant a VCL, which was due back by December 2, 2013. See Exhibit 1. The VCL was sent subsequent to Claimant's hearing request and will not be addressed in this hearing decision. See BAM 600 (July 2013), pp. 4-5.

Second, Claimant also requested a hearing disputing the cash and MA benefits. See Exhibit 1. Shortly after commencement of the hearing, Claimant did not wish to dispute the cash and MA benefits. Thus, Claimant's cash and MA hearing request is DISMISSED.

FAP benefits

In this case, Claimant is an ongoing recipient of FAP benefits. On October 30, 2013, Claimant submitted a Semi-Annual Contact (DHS-1046) online, which included attachments such as a quit claim deed, property taxes, pay stubs, and a property transfer affidavit. See Exhibit 1. The Department processed the submitted Semi-Annual and on October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$312 effective November 1, 2013, ongoing. See Exhibit 1.

It was not disputed that the certified group size is four and that the FAP group does not contain a senior/disabled/disabled veteran (SDV) member. The Department presented the November 2013 FAP budget for review from the Notice of Case Action dated October 31, 2013. See Exhibit 1. The Department calculated Claimant's husband gross earned income to be \$1,895. See 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 (July 2013), 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, pp. 7-8.

The Department testified that it calculated the husband's gross earned income based upon the submitted pay stubs with the Semi-Annual. See Exhibit 1. A review of the pay stubs does indicate less than 30 days of pay provided by the Claimant. Nevertheless, the pay stubs are described as follows: pay date of 10/1/2013 with a gross income of \$331.10; pay date of 10/15/2013 with a gross income of \$343.35; and pay date of 10/22/2013 with a gross income of \$173.96. See Exhibit 1. Converting the weekly pay to a standard monthly amount, this results in an approximate standard amount of \$1,216. See BEM 505, pp. 7-8.

Claimant disputed the calculation of her husband's gross earned income. Claimant testified that her husband is paid weekly, earns \$10.50 an hour, works approximately 30 hours a week, and earns \$180 a week in net income. Based on Claimant's testimony, converting her husband's weekly pay to a standard monthly amount, this results in an approximate standard amount of \$1,354. See BEM 505, pp. 7-8.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's husband gross earned income. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to testify on how it calculated Claimant's husband's gross income of \$1,895. Based on Claimant's pay stubs, a different standard amount was calculated. Moreover, Claimant's testimony indicated a different standard amount as well. However, both amounts were far below the gross earned income as shown in the FAP budget. See Exhibit 1. The Department will recalculate the earned income effective November 1, 2013, ongoing, in accordance with Department policy.

The Department also calculated a gross unearned income of \$58, which comprised of Claimant's child support income. See Exhibit 1. 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 did present a child support document, however, this document did not show how the Department resulted in a \$58 child support calculation. See Exhibit 1.

At the hearing, Claimant disagreed with the calculation of the child support calculation. Claimant testified that she only received child support two times the past year. Claimant testified that she last received child support in the approximate amount of \$200 in October 2013.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's unearned income. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to testify on how it calculated Claimant's child support income. The Department will also recalculate the unearned income effective November 1, 2013, ongoing, in accordance with Department policy.

Additionally, the Department properly applied the \$162 standard deduction applicable to Claimant's group size of four. RFT 255 (October 2013), p. 1. Also, the Department properly applied the heat/utility standard for the Claimant in the amount of \$553. RFT 255, p. 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554 (July 2013), pp. 14-15. The utility standard of \$553 (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 \$553 amount.

Finally, the Claimant was also disputing her shelter expenses. The Department presented an excess shelter budget from her Notice of Case Action (dated October 31, 2013), which indicated Claimant's monthly housing expense is \$500. See Exhibit 1. It was unclear from the Department's testimony of what the \$500 in housing expenses consisted of.

On or around October 3, 2013, Claimant's mother quit claim deeded her home to the Claimant. Claimant provided a Quit Claim Deed and a Property Transfer Affidavit as evidence of her new homeownership. See Exhibit 1. Due to this transfer, Claimant obtained homeowner's insurance expenses and a large property tax bill. Claimant provided such property taxes as an exhibit, which showed the statement total of \$5,660.04 as of May 10, 2013 (this was provided with the Semi-Annual). See Exhibit 1. In the Semi-Annual, Claimant properly reported that she has homeowner's insurance in the amount of \$127 monthly and \$425 in property taxes monthly. See Exhibit 1.

Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's shelter expenses. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to determine and/or explain the calculation of Claimant's shelter expenses. Claimant's monthly homeowner's insurance and property taxes exceed the \$500 in housing expenses as shown in the budget. See Exhibit 1. Claimant's homeowner's insurance and property taxes are allowable expenses. BEM 554, p. 13. Claimant reported and/or verified such expenses properly with the Semi-Annual. See Exhibit 1 and BEM 554, p. 14. Thus, the

Department will recalculate Claimant's shelter expenses effective November 1, 2013, ongoing, in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly calculated Claimant's FAP allotment in the amount \$312 effective November 1, 2013, ongoing.

Accordingly, the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating the FAP budget for November 1, 2013, ongoing, in accordance with Department policy;
2. Initiate verification of Claimant's unearned/earned income and shelter expenses in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's cash and MA hearing request is DISMISSED.



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

Date Signed: December 20, 2013

Date Mailed: December 20, 2013

NOTICE OF APPEAL: 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.

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).

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]