

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8456
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: November 27, 2013
County: Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] mother, and [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance Program (FAP) monthly allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FAP benefits.
2. The Department re-calculated the Claimant's FAP budget based on changes in the Claimant's income that were reported October 7, 2013.
3. On October 18, 2013, a Notice of Case Action was sent to the Claimant stating the FAP allotment would be reduced to \$ [REDACTED] effective November 1, 2013. (Exhibit A, pages 4-5)
4. On October 25, 2013, the Claimant filed a request for hearing protesting the Department's action.

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.

Additionally, the Department is to complete a budget when the Department is made aware of or the client reports a change in income that will affect eligibility or benefit level. BAM 505.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550. For income from employment, the gross wages are counted as earned income. BEM 501. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Amounts received weekly are multiplied by 4.3. BEM 505. The gross amount of Social Security benefits is counted as unearned income. BEM 503. All FAP groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expenses. Certain verified medical expenses are also allowed to be included in the FAP budget. BEM 554.

The Eligibility Specialist testified that the reduction in the Claimant's monthly FAP allotment was due to the changes in his income that were reported October 7, 2013. The Eligibility Specialist noted that the Claimant started work on May 16, 2013. Verification of the Claimant's earned income from employment was obtained from The Work Number. (Exhibit A, pages 6-7) A SOLQ report verified the unearned income from Social Security. (Exhibit A, pages 8-10)

The Claimant's mother testified that they had reported the Claimant started working in messages left for a prior Department worker in July and August 2013. They were not aware the worker assigned to the Claimant's FAP case had changed. The Claimant's mother questioned how the figures from the FAP budget were calculated. The Claimant's mother also noted that union dues are taken out of the Claimant's check and

that he has other expenses. (Exhibit 1, pages 1 and 8-11) However, the BEM policy does not allow for the gross earned income to be reduced by union dues or for other expenses that are not specified in the policy to be considered in the FAP budget.

The Department properly considered the Claimant's earned income, Social Security benefit income, housing costs and medical expenses along with the standard deduction and the heat/utility standard in effect at that time. (Exhibit A, pages 5-13) More specifically, the FAP-EDG Net Income Results print out shows the Claimant's countable unearned and earned income were budgeted, the 20% earned income deduction was applied as well as the standard deduction and the medical expense deduction. This resulted in the adjusted gross income figure of \$1282. (Exhibit A, page 11) The FAP-Excess Shelter Deduction print out shows that the housing expense and heat utility standard were added to give a total shelter amount, then 50% of the adjusted gross income figure was subtracted resulting in the excess shelter deduction of \$702. (Exhibit A, page 13) The excess shelter deduction was then subtracted from the adjusted gross income resulting in the net income of \$ [REDACTED] (Exhibit A, pages 11-12) The FAP benefit was then calculated by subtracting 30% of the net income figure from the maximum benefit amount for the group size of one. (Exhibit A, page 11) Accordingly, the evidence supports the Department's calculation for the FAP monthly allotment that went into effect November 1, 2013.

Pursuant to BAM 105, if there are further changes in the Claimant's work hours and/or income, or other circumstance that potentially affect eligibility or benefit amount, the Claimant must timely report these changes to the Department for determining ongoing eligibility and benefit amounts.

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 acted in accordance with Department policy when it calculated the Claimant's FAP monthly allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 5, 2013

Date Mailed: December 5, 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

CL/hj

cc:

