

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

IN THE MATTER OF:

██████████
██████████████████
████████████████████

Reg. No.: 2014-9057
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 2, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's wife, ██████████. Claimant's Authorized Representative, ██████████ ██████████ was not present for the hearing; however, Claimant's wife indicated that she wanted to proceed with the hearing in the absence of the representative. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist and ██████████, who served as translator.

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. On October 5, 2013, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2013, her FAP benefits would be decreased to \$259 (Exhibit 1)
3. Claimant disputed the calculation of her FAP benefits.

4. On October 21, 2013, Claimant submitted a hearing request disputing the Department's calculation of her FAP benefits.

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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 8. The Department is to apply a 20% earned income deduction to Claimant's total earned income. BEM 550 (July 2013), p. 1

Additionally, the gross amount of money earned from Supplemental Security Income (SSI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp. 32. State SSI Payments (SSP) are issued quarterly and the monthly SSP benefit amount is counted as unearned income. BEM 503, p.33. Family Independence Program (FIP) benefits are considered unearned income of the head of household. BEM 503, p. 14.

At the hearing, the Budget Summary from the October 5, 2013 Notice of Case Action was reviewed. The Department concluded that Claimant's group had earned income of [REDACTED] which came from Claimant's son's employment. Because Claimant's son is a mandatory FAP group member, his income must be included in the calculation of the group's FAP benefits. BEM 212 (October 2013), p. 1. Specifically, the Department stated that it relied on paystubs of (i) \$256 paid on June 7, 2013; (ii) \$[REDACTED] paid on June 14, 2013; (iii) [REDACTED] paid on June 21, 2013; and (iv) \$[REDACTED] paid on June 26, 2013. Claimant's gross monthly income based on the average weekly income multiplied by 4.3 in accordance with Department policy, is [REDACTED]. See BEM 505 (July 2013), p. 8.

The Department concluded that Claimant's group had unearned income of [REDACTED] which came from [REDACTED] in FIP benefits, [REDACTED] monthly SSI benefits for Claimant and

████ in SSP benefits. Claimant confirmed that the amounts relied on by the Department were correct.

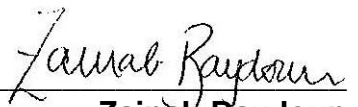
The budget shows that the Department properly applied the █████ standard deduction applicable to Claimant's confirmed group size of five and that the \$████ standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. Claimant has housing costs of █████ which the Department properly considered.

After further review of the evidence presented, the Department properly calculated Claimant's net income for FAP purposes and determined that she was eligible to receive █████ in FAP benefits monthly for a group size of five. RFT 260 (October 2013), p. 18.

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 Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: December 9, 2013

Date Mailed: December 10, 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

ZB/tm

CC:

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