

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201412759
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: SSPC-West

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on December 19, 2013 from Lansing, Michigan. Claimant participated via telephone and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program monthly allotment amount?

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 receiving [REDACTED] per month in FAP benefits with a group size of 1.
2. Claimant, at all times, was receiving Retirement Survivors Disability Insurance (RSDI) in the amount of [REDACTED] per month.
3. On October 17, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) seeking savings/checking account information and home rent information. The verifications were due on October 28, 2013.
4. On October 27, 2013, Claimant provided a copy of a lease that did not contain the landlord and tenant signature.

5. The Department processed Claimant's FAP case without the rental expenses as Claimant did not provide a valid lease with required signatures.
6. On October 30, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's monthly FAP, effective November 1, 2013, at [REDACTED] per month.
7. Claimant, on November 9, 2013, requested a hearing to dispute the Department's determination of her monthly FAP amount.

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.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505. The Department will obtain input from the client whenever possible to establish this best estimate amount. BEM 505. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups **with** one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

An expense is allowed if all of the following are present: (1) the service is provided by someone outside of the FAP group; (2) someone in the FAP group has the responsibility to pay for the service in money and (3) **verification is provided, if required.** BEM 554. "Responsibility to pay" means that the expense is in the name of a person in the FAP group. BEM 554. **Exception:** If the expense is in someone else's name, the Department will allow the expense if the FAP group claims the expense, **and**

the service address on the bill is where they live. BEM 554. The Department will **not** allow any expense if the entire expense is directly paid by an agency or someone outside of the group. BEM 554.

The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. **The Department shall not budget expenses that require verification until the verification is provided. BEM 554.** The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554.

Here, the Department contends that because Claimant failed to provide a proper verification of her lease agreement with signatures from both the landlord and tenant, the Department could not use the rental expense to offset her income. Claimant admits that she did not send the Department a copy of her entire lease and that she only sent in the portion of the lease that includes her monthly rent amount. Claimant did not challenge any of the Department's other calculations, but instead testified that she had several financial troubles.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant was receiving monthly earned income in the amount of [REDACTED] at the time relevant to this matter. Claimant was being paid RSDI benefits which are reduced by a standard deduction of [REDACTED], which leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

A claimant with a group size of 1 has a maximum net income limit of \$958.00. RFT 250. Because Claimant, with a group size of 1, had a monthly net income of [REDACTED], the FAP issuance tables determine that she is eligible to receive a [REDACTED] monthly FAP allotment. Therefore, the Department properly determined Claimant's monthly FAP allotment of [REDACTED].

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 determined Claimant's monthly FAP amount.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 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

201412759/CAP

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

CAP/aca

cc:

