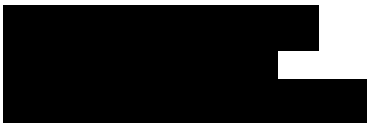


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201334856
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: April 16, 2013
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 dated January 25, 2013. After due notice, a telephone hearing was held on April 16, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly calculate 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 received FAP benefits with a monthly allotment of \$75.00 and a group size of 1.
2. On January 19, 2013, the Department sent Claimant a Notice of Case Action (DHS-1605) which decreased her monthly FAP to \$35.00 effective February 1, 2013.
3. On January 25, 2013, Claimant filed a hearing request, challenging the Department's calculation of her monthly FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the 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 1997 AACR 400.3001-3015.

For FAP purposes, all earned and unearned income available to a applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

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.

A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received) and prospected income amounts (not received but expected). BEM 505. Only countable income is included in the determination; see BEM 500.

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505. For current and future months, policy indicates that the Department should prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505. (Whenever possible, the Department should

seek input from the client to establish an estimate). To prospect income, the Department will need to know: (1) the type of income and the frequency it is received (such as, weekly); (2) the day(s) of the week paid; (3) the date(s) paid; (4) the gross income amount received or expected to be received on each pay date. BEM 505.

When the income amount changes, the Department will adjust the amount being budgeted for future pay periods. BEM 505.

Retirement Survivors Disability Insurance (RSDI) is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503. Bridges counts the gross benefit amount as unearned income. BEM 503.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by **4.3**. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505. Amounts that are received twice a month are added. BEM 505. But the Department should not convert income for the month income starts or stops if a full month's income is not expected in that month. BEM 505. The Department will use actual income received or income expected to be received in these months. BEM 505.

BEM 550 describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

The Department will budget the entire amount of earned and unearned countable income. BEM 550. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550.

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

Here, Claimant requested a hearing because the Department, following a redetermination, approved her monthly FAP allotment for \$35.00. Before the redetermination, Claimant had a \$75.00 monthly income. The Department contends that Claimant's post-redetermination monthly FAP amount of \$35.00 was due to an increase in her monthly RSDI.

The record indicates that Claimant was receiving monthly RSDI payments in the amount of \$1,657.00 from December 1, 2008 through December 1, 2009. Then, according to the documentation, Claimant's RSDI increased to \$1,716.90 on December 1, 2011. On December 1, 2012, Claimant's RSDI increased to \$1,745.90.

However, the record contained budget sheets which showed that the Department incorrectly recorded Claimant's monthly RSDI at \$1,657.00 for the benefit period ending November 30, 2012, which resulted in a \$75.00 monthly FAP allotment. According to the SOLQ, Claimant's RSDI during this time period was actually \$1,716.90. The Department incorrectly calculated Claimant's RSDI as \$1,657.00 when it was actually \$1,716.90 beginning December 1, 2011. In other words, the Department calculated Claimant's monthly FAP at \$75.00 based on an incorrect RSDI unearned income amount from December 1, 2008 through November 30, 2012. The Department should have recalculated Claimant's FAP on December 1, 2011 when her RSDI increased from \$1,657.00 to \$1,716.90. Following that increase, the Department should have recalculated Claimant's FAP when her RSDI increased again from \$1,716.90 to \$1,745.90 on December 1, 2012. In short, the Department did not properly determine Claimant's monthly FAP allotment from December 1, 2009 through December 1, 2012.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department improperly calculated Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly.

Accordingly, the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- The Department shall initiate a redetermination of Claimant's FAP back to December 1, 2009 to present.
- The Department shall properly budget Claimant's RSDI income during the above periods.
- To the extent required under policy, the Department must provide Claimant with supplemental and/or retroactive FAP benefits.

IT IS SO ORDERED.

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

Date Signed: April 22, 2013

Date Mailed: April 23, 2013

NOTICE: 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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