

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201336026
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: April 17, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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. After due notice, a telephone hearing was held on April 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's translator. Participants on behalf of the Department of Human Services (Department) included [REDACTED]; [REDACTED], Family Independence Manager; [REDACTED], Eligibility Specialist; and Huda Qandah, translator.

ISSUE

Did the Department properly calculate Claimant's monthly 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 is an ongoing recipient of FAP benefits.
2. In connection with a redetermination, the Department recalculated Claimant's FAP benefits.
3. On March 4, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits for April 1, 2013, ongoing, were \$275 for a group size of 4.
4. On March 12, 2013, Claimant filed a hearing request regarding his FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 Mich Admin Code, R 400.3001 through R 400.3015.

At the hearing, Claimant clarified that he requested a hearing disputing the amount of his monthly FAP allotment. Two issues were presented at the hearing: (i) Claimant's FAP group size and (ii) the calculation of Claimant's monthly FAP benefits.

FAP Group Size

In his redetermination, Claimant listed himself, his wife, his children [REDACTED] and his granddaughter as living in the household. The Department testified that Claimant's daughter [REDACTED] and her daughter were excluded from Claimant's FAP group because [REDACTED] was over age 22 and needed to apply to add herself and her daughter to Claimant's group and that [REDACTED] was excluded because he was an ineligible student. At the hearing, Claimant stated that he did not wish to address the Department's decision to exclude [REDACTED] and his granddaughter in his FAP group. Therefore, the only issue concerning Claimant's FAP group size addressed in this Hearing Decision is Musab's exclusion as a group member.

Individuals who are considered in student status are excluded from a FAP group unless they meet one of the eligibility exceptions. BEM 212 (November 1, 2012), p 8. [REDACTED], who Claimant identified as a full-time community college student, is in student status. BEM 245 (January 1, 2013). Based on the testimony at the hearing, [REDACTED] did not fit any of the criteria for FAP eligibility for students under BEM 245. Thus, the Department acted in accordance with Department policy when it excluded [REDACTED] from Claimant's FAP group and concluded that Claimant's FAP group had four members.

Calculation of Monthly FAP Benefits

In the March 4, 2013, Notice of Case Action, the Department notified Claimant that effective April 1, 2013, he would receive \$275 in monthly FAP benefits. The Department did not provide a net income budget showing the calculation of Claimant's monthly FAP benefits for April 2013, ongoing. Therefore, the budget information included in the March 4, 2013 Notice was reviewed.

A standard monthly amount must be determined for each income source used in the budget. BEM 505 (October 1, 2010), p. 6. The Notice showed monthly gross earned income of \$1255. The Department testified that it in calculating Claimant's earned income it relied on weekly paystubs Claimant submitted with his redetermination:

\$318.40 paid on January 17, 2013; \$318.40 paid on February 7, 2013; \$238.80 paid on February 14, 2013; and \$318.40 paid on February 21, 2013. Claimant acknowledged that his usual gross weekly pay was \$318.40. Therefore, the Department could properly consider the listed pay in calculating Claimant's gross monthly earned income. Income received weekly is converted to a standard amount by multiplying the average of weekly paychecks by the 4.3 multiplier. BEM 505, pp. 6-7. In reviewing the calculation, it appears that the Department relied on the February 7, 2013, February 14, 2013, and February 21, 2013 paystubs. Based on Claimant's income indicated on these paystubs, the Department calculated Claimant's gross monthly earned income of \$1255 in accordance with Department policy.

The Notice showed unearned income of \$811. At the hearing, Claimant verified that he received gross monthly Retirement, Survivors, Disability Insurance (RSDI) benefits of \$529 and his daughter received gross monthly RSDI benefits of \$282. Thus, the Department properly calculated the group's unearned income. Claimant also verified that his monthly rent was \$600. Claimant's FAP budget included a \$159 standard deduction available to Claimant's FAP group size of four. RFT 255 (October 1, 2012), p 1. Claimant was also entitled to an earned income deduction equal to 20% of his earned income (or \$251 in this case). BEM 550 (February 1, 2012), p 1.

Based on the foregoing figures and a FAP group size of four, the Department acted in accordance with Department policy when it calculated Claimant's FAP group's net income of \$1309 and monthly FAP benefits of \$275. BEM 556 (July 1, 2011); RFT 260 (December 1, 2012), p 12.

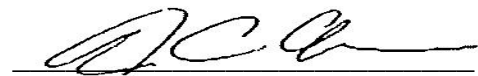
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when it determined Claimant's FAP group size and calculated Claimant's monthly FAP benefits.

did not act properly when .

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



Alice C. Elkin

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

Date Signed: 4/24/2013

Date Mailed: 4/24/2013

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. (60 days for FAP cases)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

