

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

IN THE MATTER OF:

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

Reg. No.: 2013--47625
Issue No.: 3002
Case No.: ██████████
Hearing Date: June 19, 2013
County: Gogebic

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 hearing was held on June 19, 2013, in Bessemer, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Bobbi Jo Ferguson, County Director, ██████████, ES, and ██████████. ██████████, Agent of the Office of Inspector General, was also present.

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 in the amount of \$77.00 for the period of April 1, 2013 to April 30, 2013.
2. Claimant had unearned income in the amount of \$1,911.00.
3. Claimant was in group size of one.
4. Claimant had allowable medical expenses in the amount of \$583.00.

5. On April 26, 2013, Claimant filed a hearing request, protesting the amount of benefits.
6. The Department did not provide a budget for review at the hearing regarding the period of May 1, 2013 and ongoing.

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 1999 AC, Rule 400.3001 through Rule 400.3015.

BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Adjusted gross income in a household of one is determined by subtracting the standard amount of \$148.00 (RFT 255). Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter and medical expenses, if any. BEM 554.

In the present case, Claimant received monthly FAP benefits in the amount of \$77.00 for the period of April 1, 2013 through April 30, 2013. Claimant had unearned income in the amount of \$1,911.00 per month. Claimant was in group size of one. Claimant had allowable medical expenses in the amount of \$583.00.

At the hearing, Claimant did not dispute the figures used by the Department with respect to unearned income and housing expenses (Exhibit 1, p. 77). Claimant did dispute the medical expenses used by the Department.

The Department substantiated the figure it used for medical expenses. (Exhibit 1, p. 9, Exhibit 2, pp. 13-57) See BEM 554. Claimant also testified that he incurred additional medical expenses, but he did not submit proof of the additional medical expenses at the hearing. Without proof that Claimant incurred medical expenses, it cannot be concluded that the Department did not properly include the expense in its calculation.

Claimant also argued that the gas slips he submitted to the Department (see, for example, Exhibit 1, p. 24) should be used as medical expenses, as opposed to the mileage calculation used by the Department. However, BEM 554, p. 8 instructs that “if actual costs cannot be determined for transportation, allow the cents-per mile amount at the standard mileage rate” It is logical to conclude that the Department could not determine the actual amount of gas used to and from medical appointments, even with the submission of gas receipts, as the gas receipts may reflect gas purchased and used

for travel in addition to travel allowed by Department policy. Therefore, the Department was correct in using the standard mileage rate.

After careful review of the budget submitted by the Department (Exhibit 1, pp. 77), it is concluded that the Department correctly followed its policy and procedure in calculating Claimant's FAP benefits for the period from April 1, 2013 to April 30, 2013.

It is noted, however, that Claimant's hearing request referred to a Notice of Case Action dated April 23, 2013, which also included a notice that Claimant's FAP benefits beginning May 1, 2013 would be \$34.00 per month. The Department did not present for examination at the hearing the budget substantiating the \$34.00 per month figure. Therefore, it cannot be concluded that the Department was correct in its calculation of Claimant's FAP benefits for the period beginning May 1, 2013.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly calculated Claimant's FAP benefits for the period from April 1, 2013 to April 30, 2013, but improperly calculated Claimant's FAP benefits for the period beginning May 1, 2013.

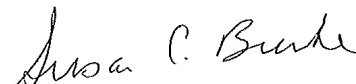
DECISION AND ORDER

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 with regard to calculating Claimant's FAP benefits for the period from April 1, 2013 to April 30, 2013, but did not act properly with regard to calculating Claimant's FAP benefits for the period beginning May 1, 2013.

Accordingly, the Department's FAP calculation decision is AFFIRMED in part and REVERSED in part for the reasons stated within the record.

THE DEPARTMENT SHALL BEGIN THE PROCESS OF THE FOLLOWING STEPS WITHIN TEN DAYS OF THE MAILING OF THIS ORDER:

1. Initiate recalculation of Claimant's FAP benefits, for the period of May 1, 2013 and ongoing.
2. Notify Claimant of the Department's determination of Claimant's FAP benefits.
3. Issue FAP supplements for any increased payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 25, 2013

Date Mailed: June 26, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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

SCB/tm

cc:

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