

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-53092
Issue No.: 3002
Case No.: ██████████
Hearing Date: July 15, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on July 15, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Family Independence Manager, and ██████████ 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 was an ongoing recipient of FAP benefits.
2. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed.
3. On May 31, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP benefits would be reduced effective July 1, 2013. (Exhibit 1)

4. On June 11, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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 Mich Admin Code Rule 400.3001 through Rule 400.3015.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp. 21 and 24.

At the hearing, the budget from the FAP EDG Net Income Results for the benefit period July 1, 2013 was reviewed. (Exhibit 2). The Department concluded that Claimant had unearned income in the amount of \$1,088.00 which came from monthly RSDI benefits. Claimant verified that the gross amount of monthly federal benefits she receives is \$1,088.00, but stated that this amount comes from SSI, not RSDI as the Department stated. Because the gross amount of RSDI and SSI is counted the same for unearned income purposes, the Department properly calculated Claimant's unearned income.

The FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of one and the excess shelter deduction summary establishes that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibit 2) RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. The Department determined Claimant's housing costs were \$179.35 which is the monthly amount of Claimant's annual taxes of \$2,152.15. Claimant stated that she pays over \$450.00 in monthly taxes, however, the Department testified that because the amount paid in excess of the \$179.35 is for back taxes for the year 2010, they cannot be considered for Claimant's current housing costs. (Exhibit 2).

Claimant is eligible for a deduction for verified medical expenses she incurred in excess of \$35.00. BEM 554 (October 2012), p 1. In this case, the Department testified that certain medical expenses were erroneously included in Claimant's previous FAP budget and that for the benefit period of July 1, 2013 ongoing, Claimant's medical expense was

reviewed. The Department concluded that Claimant had a medical expense deduction of \$37.00 which came from pharmacy bills and her monthly Medicare premium. Claimant stated that she had additional bills from other pharmacies that were not considered which she provided the Department with at the time of her redetermination and again when she requested a hearing. Claimant also stated that she had doctor bills that she incurred that the Department did not consider as medical expenses. Although the Department testified that some of Claimant's doctor bills were not considered because they were too old, the Department failed to establish that it considered all of Claimant's pharmacy and prescription expenses which she credibly testified were supplied to the Department on two occasions. Therefore, the Department did not act in accordance with Department policy when it failed to consider certain medical expenses to determine if they should be applied to her medical deduction.

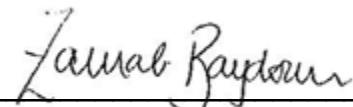
As such, the Department did not satisfy its burden in establishing that it properly calculated Claimant's FAP benefits.

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 not act in accordance with Department policy when it reduced Claimant's FAP benefits. Accordingly, the Department's decision is REVERSED.

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

1. Begin recalculating Claimant's FAP budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision, taking into account appropriate medical expenses;
2. Begin issuing supplements to Claimant for any FAP benefits that she was eligible to receive but did not from July 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing in accordance with Department policy.



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

Date Signed: July 25, 2013

Date Mailed: July 25, 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 affect the substantial rights of the claimant:
 - 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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
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