

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-54239
Issue No.: 3002;3014
Case No.: ██████████
Hearing Date: July 22, 2013
County: Wayne (18)

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 22, 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. On June 17, 2013, the Department sent Claimant a Notice of Case Action informing him that his FAP benefits would be reduced effective July 1, 2013. (Exhibit 1)
3. On June 20, 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 summary from the Notice of Case Action for the benefit period July 1, 2013 was reviewed. (Exhibit 1). The Department concluded that Claimant had unearned income in the amount of \$1,461.00 which came from monthly RSDI benefits. Claimant verified that the gross amount of monthly federal benefits he receives is \$1,461.00 and the SOLQ provided also confirms this amount. (Exhibit 3).

The budget shows that the Department applied the \$148.00 standard deduction applicable to Claimant's group size and the excess shelter deduction summary establishes that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibits 1 and 2) RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. The Department determined Claimant's housing costs were \$595.00, which Claimant confirmed.

Claimant raised a concern that his FAP group size should be two and not one, as the Department determined. Claimant testified that his daughter lives with him and that they purchase and prepare food together. Claimant stated that she has been living with him since December 2010 and that he is not sure why she is no longer being considered a group member, when she was previously. The Department was unable to explain why Claimant's daughter was no longer a recognized group member.


Although the Department used the correct figures in calculating Claimant's income, shelter expense and appropriate deductions, the Department failed to establish that it acted in accordance with Department policy when it determined that Claimant's group size was one. 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;
2. Begin issuing supplements to Claimant for any FAP benefits that he 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 31, 2013

Date Mailed: July 31, 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:

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- 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

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cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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