

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-54420
Issue No.: 3002
Case No.: ██████████
Hearing Date: July 22, 2013
County: Wayne (17)

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 and her husband, Emad Aledany, 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 the amount of 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. Claimant did not agree with the Department's calculation of her FAP benefits.
3. On June 21, 2013, Claimant filed a hearing request disputing the Department's actions.

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 Mich. Admin Code. Rule 400.3001 through Rule 400.3015.

Additionally, 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 Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 2010), p 2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 6-7.

In this case, Claimant requested a hearing to dispute the amount of FAP benefits she is currently receiving. At the hearing, the budget from the FAP EDG Net Income Results for the July 2013 benefit period was reviewed. (Exhibit 3). The Department testified that Claimant's husband is a disqualified person living with the group for FAP purposes and although he is not counted as group member, his income is still considered. Because Claimant's husband is disqualified for not meeting citizenship/alien requirements, the Department budgets a pro rata share of his earned and unearned income. BEM 550 (February 2012), p. 2. Each source of income is prorated individually as follows: (i) the number of eligible FAP group members is added to the number of disqualified persons that live with the group; (ii) next the disqualified/ineligible person's income is divided by the number of persons in step 1; and (iii) the result in step 2 is multiplied by the number of eligible group members. BEM 550, p. 3.

The Department concluded that Claimant's group had earned income of \$688.00. The Department testified that in calculating Claimant's monthly earned income, it considered her husband's income of \$200.00 weekly. Applying the prospective budgeting policy here, the Department properly determined that Claimant's husband's gross monthly income was \$860.00. Taking that amount and applying the pro rata budgeting policy of BEM 550 establishes that the Department also properly determined Claimant's total

share of her spouse's earned income to be \$688.00. BEM 550, p. 3. The Department applied the 20% earned income deduction to Claimant's total earned income. BEM 550, p. 1.

The budget shows that the Department properly applied the \$159.00 standard deduction applicable to Claimant's group size of four and that the maximum amount of \$469.00 for the excess shelter deduction was applied. Claimant also confirmed that her housing costs were \$650.00 (Exhibit 1); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12.

A further review of the evidence establishes that the Department properly determined that Claimant was eligible to receive FAP benefits in the maximum amount of \$668.00. RFT 260 (December 2012), p. 9.

Additionally, when a client group receives more benefits than entitled to receive, the Department must attempt to recoup the overissuance (OI). Administrative Recoupment (AR) is an automated Bridges process that reduces current Department benefits in order to obtain repayment on the OI for that program. BAM 725 (August 2012), p.1. In this case, the Department testified that because Claimant's husband received FAP benefits during a period of time where he should have been disqualified due to his citizenship status, the Department was entitled to a recoupment. Claimant's husband confirmed that his permanent resident card expired in 2010 and that he was not removed as a FAP group member until March 2013. An eligibility summary confirms the Department's testimony that Claimant's group size was reduced from five to four effective March 1, 2013. (Exhibit 1). Therefore, the Department did act in accordance with Department policy when it 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 acted in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's decision with respect to FAP is AFFIRMED.



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:
 - 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]
[REDACTED]
[REDACTED]