

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201354470
Issue No: 3015
Case No: [REDACTED]
Hearing Date: July 25, 2013
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on June 24, 2013. After due notice, a telephone hearing was held on July 25, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving FAP benefits at all times pertinent to this hearing.
2. On June 17, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective July 1, 2013, his FAP benefits allotment would be decreased from \$367.00 to \$16.00 due to a reduction in the medical deduction included in Claimant's FAP budget. (Department Exhibits 1-3)
3. On June 25, 2013, Claimant submitted an unsigned hearing request protesting the department's determination of his monthly FAP benefit allotment. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

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The department determines a FAP group's net income by deducting certain allowable expenses. For a FAP group with one or more senior/disabled/disabled veteran (SDV) members, these expenses include dependent care expenses, medical expenses that exceed \$35.00, child support expenses, and shelter expenses. BEM 554. When budgeting such expenses, the department must use expenses from the same calendar

month as the month for which the department is determining benefits. BEM 554. These expenses will remain unchanged until the FAP group reports a change. To determine the monthly amount of such expenses, the department's computer program (Bridges) will convert all expenses (except one-time-only expenses the group does not wish to average) to a non-fluctuating monthly amount. BEM 554.

For medical expenses, a FAP group with a 24-month benefit period must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period: (i) have the expenses budgeted for one month; (ii) have the expenses averaged over the remainder of the first 12 months of the benefit period; or (iii) have the expenses averaged over the remainder of the 24-month benefit period. BEM 554.

In this case, the department's calculation of Claimant's \$16.00 monthly FAP allotment beginning July 1, 2013 was based on the department's processing of Claimant's May 22, 2013 redetermination paperwork and the determination that the department had been erroneously including a medical deduction in the amount of \$4,793.00 in Claimant's FAP budget rather than the correct medical deduction in the amount of \$5.00. Therefore, a medical deduction of \$5.00 and the standard deduction of \$148.00 were subtracted from Claimant's countable unearned income of \$1,890.00, leaving an adjusted gross income of \$1,737.00.

An excess shelter deduction of \$237.00 was then subtracted from Claimant's adjusted gross income leaving a monthly net income of \$1,500.00. Claimant's excess shelter deduction of \$237.00 was determined by adding Claimant's monthly housing expenses to the \$575.00 standard heat and utility amount and subtracting half of Claimant's adjusted gross income. Claimant's monthly housing expense is \$530.00 which, when added to the \$575.00 standard heat and utility amount, resulted in a total housing expense of 1,105.00. Half of Claimant's adjusted gross income (\$868.00) was then subtracted from Claimant's housing and utilities (\$1,105.00) for an adjusted excess shelter amount of \$237.00. Since Claimant does not meet the senior/disabled/veteran criteria, the department may only deduct the non-SDV shelter maximum amount of \$237.00 from Claimant's adjusted gross income. BEM 556.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of one with net income of \$1,500.00 is entitled to a \$16.00 FAP allotment. Therefore, the department's determination of Claimant's FAP allotment in the amount of \$16.00 effective July 1, 2013 was correct.

Consequently, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the July 25, 2013 hearing, the department properly determined Claimant's FAP benefit allotment for the benefit period effective July 1, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP benefit allotment for the benefit period effective July 1, 2013. Accordingly, the department's action in this regard is **UPHELD**.

It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 31, 2013

Date Mailed: July 31, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

201354470/SDS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

