

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

IN THE MATTER OF:

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

Reg. No.: 2013-56790
Issue No.: 3003
Case No.: ██████████
Hearing Date: August 7, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 held on August 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for June 2013 in the amount of \$24?

Did the Department properly calculate Claimant's FAP benefits for July 1, 2013, ongoing, in the amount of \$99?

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 is an ongoing recipient of FAP benefits.
2. On June 24, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$24 effective June 2013. Exhibit 1.

3. On June 24, 2013, the Notice of Case Action also notified Claimant that her FAP benefits were approved in the amount of \$99 effective July 1, 2013, ongoing. Exhibit 1.
4. On July 2, 2013, Claimant filed a hearing request, protesting her FAP allotment. Exhibit 1.

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, R 400.3001 through R 400.3015.

As a preliminary matter, Claimant testified that she is disputing her June 2013 FAP allotment in the amount of \$24. Claimant also testified that she is disputing her July 1, 2013, ongoing, FAP allotment in the amount of \$99. Both benefit periods will be addressed below.

June 2013 FAP budget

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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.

It was not disputed that the certified group size was six and that the FAP group does contain a senior/disabled/disabled veteran (SDV) member. The Department presented the June 2013 FAP budget for review. See Exhibit 1. The Department calculated Claimant's total net earned income amount to be \$3,002. Claimant did not dispute this amount.

Moreover, the Department counts the gross amount as unearned income regarding Social Security payments. BEM 503 (May 2013), pp. 20-21. Also, Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. BEM 660 (November 2012), p. 1. It is a federal program administered by the Social Security Administration (SSA). BEM 660, p. 1. States are allowed the option to supplement the federal benefit with state funds. BEM 660, p. 1. In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with state funds. BEM 660, p. 1. The amount of the state benefit varies by living arrangement. BEM 660, p. 1. DHS issues the SSP payment to SSI recipients in the following living arrangements: independent living and household of another (living in the household of another person and receiving partial or total support and maintenance in kind from that person). BEM 660, p. 1. Moreover, independent living/individuals receive SSP payments in the amount of \$14. RFT 248 (January 2013), p. 1.

The Department calculated Claimant's total countable unearned income to be \$724. See Exhibit 1. This amount consisted of Claimant's gross SSI payment, which was \$710. See Exhibit 1. Also, the additional \$14 in unearned income consisted of Claimant's \$14 SSP payment. See RFT 248, p. 1. Claimant did not dispute the \$724 unearned income amount.

The Department then adds both the countable unearned income and earned income, which results in a total income of \$3,726 (\$3,002 earned income plus \$724 earned income). See Exhibit 1. The Department then applied the 20 percent earned income deduction to only a portion of the earned income. BEM 550 (February 2012), p. 1. The June 2013 budget indicates that \$899 of the \$3,002 total net earned income was not allowed the 20% earned income deduction. See Exhibit 1. The Department only applied the 20% earned income deduction to the remaining amount, which was \$2,103. See Exhibit 1. The Department was unable to testify why it did not apply the 20% earned income deduction to the entire \$3,002 total net earned income. It appears that the \$899 was calculated using Claimant's May 2013 weekly earnings. See Exhibit 1. However, no testimony was provided for the \$899 calculation.

Based on the foregoing information, the Department did not satisfy its burden of showing that it acted in accordance with Department policy on how it calculated the June 2013 FAP budget.

Nevertheless, twenty percent of \$2,103 is \$421, which results in a post-earned income of \$3,305 (\$3,726 total income amount minus \$421 earned income deduction). The Department then applied the \$213 standard deduction applicable to Claimant's group

size of six. BEM 550, p. 1; RFT 255 (October 2012), p. 1. This results in an adjusted gross income of \$3,092 (\$3,305 post-earned income minus \$213 standard deduction).

Claimant's group does have a SDV member, thus, the group qualifies for excess shelter deductions and is not subject to a maximum shelter deduction. BEM 554 (October 2012), p. 1; See BEM 550, pp. 1-5. The shelter budget indicates that Claimant's monthly housing expenses is \$950, which she did not dispute. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,525. Then, the Department subtracts the total shelter amount from fifty percent of the \$3,092 adjusted gross income. Fifty percent of the adjusted gross income is \$1,546. Then, the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,525 shelter income minus \$1,546 $\frac{1}{2}$ adjusted gross income); this amount is found to be \$0 because the shelter amount is greater than $\frac{1}{2}$ of the adjusted gross income. See Exhibit 1. But, the Department will have to recalculate the June 2013 budget, which might possibly result in an excess shelter deduction.

Finally, the Department subtracts the adjusted gross income from the shelter deduction, which results in a net income limit of \$3,092. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department determined that Claimant's FAP benefit issuance is found to be \$24. RFT 260 (December 2012), p. 27.

Based on the foregoing information and evidence, the Department will have to recalculate Claimant's FAP Budget for the effective benefit period of June 2013.

July 1, 2013, ongoing, FAP budget

The Department presented the July 2013 FAP budget for review. See Exhibit 1. The Department calculated Claimant's total net earned income amount to be \$3,002. Claimant did not dispute this amount.

The Department also calculated Claimant's total countable unearned income to be \$724. See Exhibit 1. This amount consisted of Claimant's gross SSI payment, which was \$710. Also, the additional \$14 consisted of Claimant's \$14 SSP payment. See RFT 248, p. 1. Claimant did not dispute the \$724 unearned income amount.

The Department then adds both the countable unearned income and earned income, which results in a total income of \$3,726 (\$3,002 earned income plus \$724 earned income). See Exhibit 1.

Because the Department properly calculated the total gross countable earned income to be \$3,002, the Department then reduced that amount by a 20 percent earned income deduction. BEM 550, p. 1. Twenty percent of \$3,002 is \$601, which results in a post-earned income of \$3,125 (\$3,726 total income amount minus \$601 earned income deduction). The Department then applied the \$213 standard deduction applicable to Claimant's group size of six. BEM 550, p. 1; RFT 255, p. 1. This results in an adjusted gross income of \$2,912 (\$3,125 post-earned income minus \$213 standard deduction).

Claimant's group does have a SDV member, thus, the group qualifies for excess shelter deductions and is not subject to a maximum shelter deduction. BEM 554, p. 1; See BEM 550, pp. 1-5. The shelter budget indicates that Claimant's monthly housing expense is \$950, which she did not dispute. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,525. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,912 adjusted gross income. Fifty percent of the adjusted gross income is \$1,456. Then, the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,525 shelter income minus \$1,456 $\frac{1}{2}$ adjusted gross income); this amount is found to be \$69. See Exhibit 1.

Finally, the Department subtracts the adjusted gross income from the shelter deduction, which results in a net income limit of \$2,843. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department determined that Claimant's FAP benefit issuance is found to be \$99. RFT 260, p. 25.

Based on the foregoing information and evidence, the Department properly calculated Claimant's July 1, 2013, ongoing, FAP budget.

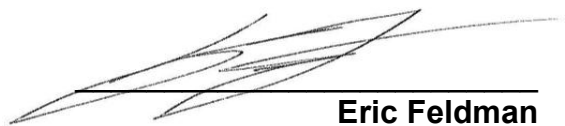
DECISION AND ORDER

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 (i) improperly calculated Claimant's June 2013 FAP budget and (ii) properly calculated Claimant's July 1, 2013, ongoing, FAP budget.

Accordingly, the Department's June 2013 FAP budget decision is REVERSED and the Department's July 1, 2013, ongoing, FAP budget decision is AFFIRMED for the reasons stated above and on the record.

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

1. Begin recalculating the FAP budget for June 2013 in accordance with Department policy;
2. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not for June 2013; and
3. Begin notifying Claimant in writing of its FAP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 16, 2013

Date Mailed: August 16, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]