

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

IN THE MATTER OF:

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

Reg. No.: 2013-56840
Issue No.: 3002
Case No.: ██████████
Hearing Date: August 7, 2013
County: Wayne (19)

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 August 7, 2013 from Detroit, Michigan. Claimant and ██████████, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Assistance Payment Supervisor 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. On June 17, 2013, an administrative hearing was held with regard to the reduction of Claimant's FAP benefits effective May 1, 2013. (Exhibit 1).
3. The June 17, 2013 Hearing Decision found that the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits and ordered the Department to initiate certain actions with respect to Claimant's FAP case.

4. The Department did not comply with the orders of the Administrative Law Judge in the June 17, 2013 Hearing Decision.
5. On June 26, 2013, the Department sent Claimant a Notice of Case Action informing him that he was approved for FAP benefits in the amount of \$207.00 effective July 1, 2013. (Exhibit 2).
6. Claimant did not agree with the Department's calculation of his FAP benefits.
7. On July 2, 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, Claimant requested a hearing regarding the Department's failure to comply with a previous administrative hearing decision as well as the amount of FAP benefits he was approved for effective July 1, 2013.

On June 17, 2013, an administrative hearing was held with regard to the reduction of Claimant's FAP benefits effective May 1, 2013. (Exhibit 1). The June 17, 2013 Hearing Decision found that the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits and ordered the Department to initiate certain actions with respect to Claimant's FAP case. The Department was ordered to (i) begin recalculating Claimant's FAP budget for May 1, 2013 ongoing in accordance with Department policy and consistent with the Hearing Decision; (ii) issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from May 1, 2013, ongoing; and (iii) notify Claimant in writing of its decision in accordance with Department policy. (Exhibit 1).

At the August 8, 2013 hearing, the Department acknowledged that it did not comply with the June 17, 2013 Hearing Decision by recalculating Claimant's FAP budget for May 1, 2013 ongoing and that instead, it recalculated Claimant's FAP budget effective July 1, 2013 and sent Claimant notice of the decision by way of a Notice of Case Action. (Exhibit 2). As such, the Department did not act in accordance with Department policy when it failed to recalculate Claimant's FAP budget for May 1, 2013 ongoing and issue supplements to Claimant for any FAP benefits he was eligible to receive but did not

from May 1, 2013 ongoing as it was ordered to do in the June 17, 2013 Hearing Decision.

Additionally, on June 26, 2013, the Department sent Claimant a Notice of Case Action informing him that he was approved for FAP benefits in the amount of \$207.00 effective July 1, 2013. (Exhibit 2). Claimant disputed this amount.

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 (May 2013), pp. 21 and 24. Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. BEM 503, p. 23. The Department issues the State SSI Payment (SSP) to SSI recipients on a quarterly basis. BEM 660 (November 2011), p.1. The monthly amount of the SSP payment issued quarterly by the Department in March, June, September and December for a couple in an independent living situation is \$21.00. RFT 248 (January 2013), p. 1.

At the hearing, the budget summary from the June 26, 2013 Notice of Case Action was reviewed. (Exhibit 2). The Department concluded that Claimant had unearned income of \$1,107.00 which came from RSDI, SSI and SSP payments for both Claimant and his wife. The Department testified that in calculating Claimant's monthly unearned income, it considered the following: (i) Claimant's gross monthly RSDI of \$702.00; (ii) Claimant's gross monthly SSI of \$33.50; (iii) Claimant's wife's gross monthly RSDI of \$317.00; (iv) Claimant's wife's gross monthly SSI of \$33.50; and (v) the couple's monthly SSP income of \$21.00. (Exhibit 2). Claimant confirmed the amounts used by the Department for RSDI and SSI for himself and his wife; however, Claimant stated that they have not received the SSP payment since December 2012. The Department presented another income search which verifies that Claimant and his wife did in fact receive the quarterly SSP payment in March 2013 as well. (Exhibit 3). Therefore, the Department properly calculated Claimant's unearned income of \$1,107.00.

The budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of two and 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 \$330.00, which Claimant confirmed. (Exhibit 2).

Because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. At the time of the hearing, Claimant had not submitted any additional medical expenses, so a medical deduction was not applied.

A further review of the evidence establishes that the Department properly determined that Claimant had net income of \$533.00 and was eligible to receive FAP benefits in the amount of \$207.00. RFT 260 (December 2012), p. 5.

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 the amount of Claimant's monthly FAP benefits effective July 1, 2013 but did not act in accordance with Department policy when it failed to comply with the June 17, 2013 Hearing Decision. Accordingly, the Department's decision with respect to FAP is AFFIRMED in part and REVERSED in part.

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 May 1, 2013 to June 30, 2013, 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 May 1, 2013 to June 30, 2013; 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: 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

ZB/cl

cc:

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