

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15592
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: February 13, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on February 13, 2014, from Redford, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. Claimant's FAP eligibility was scheduled for redetermination beginning [REDACTED].
3. Claimant was a member of a four-person household.
4. Claimant's spouse received the following gross employment income: \$585.35 on [REDACTED] and \$482.14 on [REDACTED] (see Exhibit 1).
5. Claimant paid \$755/month in rent.

6. On [REDACTED], DHS determined Claimant to be eligible for \$548/month in FAP benefits, effective [REDACTED].
7. On [REDACTED] Claimant requested a hearing to dispute the FAP benefit issuance including a request to continue receiving FAP issuances at the amount previously determined by DHS.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a FAP benefit issuance effective [REDACTED]. Claimant, on multiple occasions, contended that DHS should have issued FAP benefits at the amount issued to her in [REDACTED], pending the hearing outcome. It was not disputed that Claimant timely requested a hearing and requested that DHS continue issuing benefits at the previously determined issuance level.

A timely hearing request is a request received anywhere in the department within 11 days of the effective date of a negative action. BAM 600 (7/2013), p. 7. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. *Id.* For FAP only, these actions apply only if the benefit period has not expired.

The benefit month of [REDACTED] was the final month of Claimant's FAP benefit period. DHS policy prohibits the issuance of FAP benefits at the amount from a previous benefit period. Accordingly, DHS properly did not issue FAP benefits to Claimant at the amount issued at the end of an expired benefit period, pending the hearing outcome.

Claimant disputed her FAP eligibility beginning [REDACTED]. Claimant contended that DHS must have improperly reduced her FAP benefit eligibility because nothing changed in her personal circumstances. Claimant wanted DHS to explain the differences in her FAP budget from [REDACTED] and [REDACTED]. FAP eligibility in prior months is irrelevant to determining Claimant's proper FAP eligibility for [REDACTED]. BEM 556 outlines how FAP benefits are determined.

The first determination concerns household income. For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (7/2013), p. 5.

DHS determined Claimant's FAP eligibility on [REDACTED] based on Claimant's spouse's last 30 days of income. Claimant testified that her spouse's income fluctuated. Claimant's testimony implied that DHS should have used some different method of prospecting Claimant's spouse's income. DHS policy does not support Claimant's implied argument.

Claimant stated that her spouse receives less employment income now than he did in [REDACTED]. Claimant's statement is relevant to reporting an income change after DHS determined her eligibility but does not affect whether DHS made a proper FAP benefit determination on [REDACTED].

Claimant contended that DHS could have used a non-specified longer period from which to prospect her spouse's income. Claimant's spouse's employment income history was presented (see Exhibit 1). Nothing within the income history suggested that DHS' use of a 30-day period to prospect income was inappropriate. It is found that DHS properly looked at Claimant's spouse's last 30 days of income to prospect income.

DHS converts bi-weekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 (7/2013), pp. 7-8. Multiplying Claimant's spouse's bi-weekly income by 2.15 results in a countable employment income of \$1147, the same amount determined by DHS (see Exhibit 2).

DHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying a 20% deduction to the employment income creates a countable monthly employment income of \$917 (dropping cents).

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant's FAP group was a non-SDV group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35 per month copayment to monthly medical expenses. It was not disputed that Claimant had no day-care or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$162. RFT 255 (10/2012), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$755.

Claimant either testified that her rent increased since the DHS redetermination of FAP benefits. A change reported after a DHS determination does not change the correctness of the DHS determination. Claimant conceded that her reported rent obligation as of [REDACTED] was \$755.

DHS gives a flat utility standard to all clients. BEM 554 (1/2011), pp. 11-12. The utility standard of \$553 (see RFT 255 (10/2013, p. 1) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is \$1,308.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$931 (rounding up to nearest dollar). Unfortunately for Claimant, the amount is capped at \$478 (see RFT 255) for non-SDV groups.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$277. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$548, the same amount calculated by DHS (see Exhibit 2).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility to be \$548 for the month of [REDACTED]. The actions taken by DHS are **AFFIRMED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/21/2014

Date Mailed: 2/21/2014

NOTICE OF APPEAL: 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.

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).

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

CG/hw

cc:

