

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19798
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 27, 2014
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a telephone hearing was held on January 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist/Assistance Payments Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for [REDACTED], 2014, ongoing?

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's FAP benefits were calculated for a group size containing only his daughter because Claimant and his wife were improperly designated as disqualified FAP group members.
3. In connection with a [REDACTED] 2013 FAP redetermination, the Department became aware that Claimant and his wife were permanent residents.

4. The Department recalculated Claimant's FAP benefits to include Claimant and his wife as group members and to include Claimant's income.
5. On [REDACTED], 2013, the Department sent Claimant a Notice of Case Action notifying him that, effective [REDACTED], 2014, he was approved for monthly FAP benefits of \$76 for a group size of 3.
6. On [REDACTED], 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Additionally, on [REDACTED], 2013, the Department notified Claimant that, effective [REDACTED], 2014, he was approved for monthly FAP benefits of \$76 for a group size of three. Claimant requested a hearing to dispute the calculation of his FAP benefits. The Department presented a FAP budget showing the figures and information used to calculate Claimant's monthly FAP benefits, which was reviewed with Claimant at the hearing.

The budget showed a FAP group size of three, which the Department testified consisted of Claimant, his wife, and their daughter. The Department explained that Claimant and his wife were previously excluded from the FAP group as ineligible aliens. To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (January 2014), p. 1. Acceptable alien status includes individuals who are permanent resident aliens and have been in the U.S. for five years. BEM 225, pp. 6-7, 10-11. Permanent residency cards for Claimant and his wife showed that they were residents since 1991. Because Claimant and his wife had been permanent residents for more than 5 years, they were properly included in the FAP group.

The Department considers the gross income of all FAP group members in calculating FAP benefits. BEM 550 (July 2013), pp. 1, 3-4. The FAP budget shows unearned income totaling \$1,556, which the Department testified was based on Claimant's gross weekly unemployment benefits. Although Claimant testified that he received weekly benefits totaling \$329, the Department is required to consider gross benefits. BEM 503

(January 2014), p. 34. The Department established that Claimant received \$362 gross weekly unemployment benefits. Claimant's \$362 weekly benefits, multiplied by 4.3 in accordance with Department policy, results in gross monthly unearned income of \$1,556, as reflected in the FAP budget. BEM 505 (July 2013), pp. 7-8.

Because the household did not have any earned income and there were no senior/disabled/veteran (SDV) members in the FAP group, the group was eligible for the following deductions under Department policy:

- a standard deduction of \$151 based on the three-person group size [RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4];
- an excess shelter deduction, which takes into account Claimant's \$152.19 in monthly housing expenses and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size [RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15]; and
- expenses for child care and child support (BEM 554, p. 1).

Claimant confirmed that he had no day care or child support expenses. He did not dispute the Department's consideration of \$152.19 for monthly shelter expenses. While he brought in property tax verifications to the hearing, there was no evidence that those expenses had been presented to the Department prior to the hearing.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly calculated Claimant's monthly net income of \$1,402. Based on net income of \$1,402 and a FAP group size of three, the Department acted in accordance with Department policy when it calculated Claimant was eligible for monthly FAP benefits of \$76. BEM 556; RFT 260 (December 2013), p. 18.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 29, 2014

Date Mailed: January 29, 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

ACE/pf

cc:

