

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

IN THE MATTER OF:

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██████████████████████████████

Reg. No.: 2014-20385
Issue No(s): 3008
Case No.: ██████████
Hearing Date: January 29, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant (father); ██████████, Claimant's daughter; ██████████, Claimant's wife; and ██████████, Claimant's interpreter and Eligibility Specialist from the Department of Human Services. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment for December 1, 2013, 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 is an ongoing recipient of FAP benefits. See Exhibit 1.
2. Effective December 2013, Claimant received FAP benefits in the amount of \$305. See Eligibility Summary, Exhibit 1.
3. On December 7, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$283 effective January 1, 2014, ongoing. See Exhibit 1.

4. On December 20, 2013, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1.

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.

Preliminary matters

First, an additional Administrative Hearing was conducted with the Claimant on January 29, 2014, in which he requested a hearing for Medical Assistance (MA) and FAP benefits (See Registration #2014-20384) on November 21, 2013. In the other hearing, only the MA benefits were addressed. However, this hearing decision will also address Claimant's FAP hearing request dated November 21, 2013 (See Registration #2014-20384.) See Exhibit 1.

Second, Claimant's additional FAP hearing request was dated November 21, 2013. Thus, this hearing decision will also address Claimant's FAP allotment for December 2013.

In summary, this hearing decision will address Claimant's FAP benefits for December 2013 and January 2014.

January 2014 FAP benefits

Claimant is an ongoing recipient of FAP benefits. See Exhibit 1. On December 7, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$283 effective January 1, 2014, ongoing. See Exhibit 1.

It was not disputed that the group size is eight and that the FAP group does contain two senior/disabled/disabled veteran (SDV) members. The Department presented the January 2014 FAP budget for review from the Notice of Case Action dated December 7, 2013 as well as a FAP budget for February 2014 (same calculations as compared to January 2014). See Exhibit 1. The Department calculated the FAP group's gross unearned income to be \$3,159. See Exhibit 1.

The Department counts the gross benefit amount for Retirement, Survivors, and Disability Insurance (RSDI) amount as unearned income. See BEM 503 (July 2013), p. 28. The Department also counts the gross amount of current SSA-issued Supplemental Security Income (SSI) as unearned income. BEM 503, p. 32. State SSI Payments (SSP) are issued quarterly. BEM 503, p. 33. Payments are issued in the final month of each quarter. BEM 503, p. 33. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33; and see RFT 248 (December 2013), p. 1.

At the hearing, Claimant did not dispute the calculation of the unearned income. It should be noted all eight group members receive some form of SSA income. The Department did present all SOLQ screens for the group members. See Exhibit 1. A review of all of the SOLQ screens indicated that the Department appropriately calculated the proper amount. Nevertheless, Claimant agreed to the total gross unearned income.

The Department then applied the \$218 standard deduction applicable to Claimant's group size of eight. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$218 standard deduction, this results in an adjusted gross income of \$2,941. See Exhibit 1.

It should be noted that Claimant did not dispute any dependent care, medical, and/or child support deductions.

Then, Claimant testified that the FAP group does contain SDV members. For groups with one or more SDV members, the Department uses the excess shelter amount. BEM 554 (July 2013), p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$1,013.49, which Claimant did not dispute. See Exhibit 1. Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 (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 \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,566. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,941 adjusted gross income. Fifty percent of the adjusted gross income is \$1,470. When the Department subtracts the total shelter amount from fifty percent of the gross income, this results in an excess shelter deduction of \$96. See Exhibit 1.

Finally, the Department then subtracts the \$2,941 adjusted gross income from the \$96 excess shelter deduction, which results in a net income of \$2,845. See Exhibit 1. 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 \$283. RFT 260 (December 2013), p. 36.

December 2013 FAP benefits

Effective December 2013, Claimant received FAP benefits in the amount of \$305. See Eligibility Summary, Exhibit 1.

It was not disputed that the group size is eight and that the FAP group does contain two senior/disabled/disabled veteran (SDV) members. The Department presented the December 2013 FAP budget for review. See Exhibit 1. The Department calculated the FAP group's gross unearned income to be \$3,111. See Exhibit 1.

At the hearing, Claimant did not dispute the calculation of the unearned income for January 2014. The January 2014 unearned income calculation was greater than the December 2013 unearned income calculation. A review of all of the SOLQ screens indicated that the Department appropriately calculated the proper amount.

The Department then applied the \$218 standard deduction applicable to Claimant's group size of eight. RFT 255, p. 1. Once the Department subtracts the \$218 standard deduction, this results in an adjusted gross income of \$2,893. See Exhibit 1.

It should be noted that Claimant did not dispute any dependent care, medical, and/or child support deductions.

Then, Claimant testified that the FAP group does contain SDV members. For groups with one or more SDV members, the Department uses the excess shelter amount. BEM 554, p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$1,013.49, which Claimant did not dispute for his January 2014 budget. See Exhibit 1. Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 (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 \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,566. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,893 adjusted gross income. Fifty percent of the adjusted gross income is \$1,446. When the Department subtracts the total shelter amount from fifty percent of the gross income, this results in an excess shelter deduction of \$120. See Exhibit 1.

Finally, the Department then subtracts the \$2,893 adjusted gross income from the \$120 excess shelter deduction, which results in a net income of \$2,773. See Exhibit 1. 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 \$305. RFT 260, p. 35.

DECISION AND ORDER

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 properly calculated Claimant's FAP allotment effective December 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: February 5, 2014

Date Mailed: February 5, 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

2014-20385/EJF

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]