

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

IN THE MATTER OF:

[REDACTED]

Reg. Nos.: 201420775 and 201421228
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (19)

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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's partner. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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. In connection with a redetermination, the Department recalculated Claimant's FAP eligibility and benefit amount.
3. On [REDACTED], 2013, the Department sent Claimant a Notice of Case Action notifying her that effective [REDACTED], 2014 she was approved for monthly FAP benefits of \$19.
4. On [REDACTED], 2013, Claimant filed a request for hearing disputing the Department's calculation of FAP benefits.

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, Claimant disputed the calculation of her FAP benefits.

The Department presented a FAP budget that was reviewed with Claimant and her partner at the hearing. Because Claimant and her partner lived together and advised the Department that they purchased and prepared food together, they were both properly considered members of the same FAP group. BEM 212 (October 2013), p. 6.

The budget showed \$2092 in total income for the group. Claimant has unearned gross monthly income of \$913, which she did not dispute. The Department testified that in calculating Claimant's partner's gross monthly employment income in connection with the [REDACTED] 2013 redetermination, it considered two paychecks: \$523.52 paid on [REDACTED], 2013 and \$573.70 paid on [REDACTED], 2013. To prospect a client's income for the future, the Department must use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any unusual pay that does not reflect the normal, expected pay amounts. BEM 505 (July 2013), p. 5. Although Claimant's partner's biweekly pay fluctuates, a review of her pay history shows that the 30-day pay period considered by the Department accurately reflected her income. The average of the biweekly pay amounts considered, multiplied by 2.15 in accordance with Department policy, results in gross monthly earned income of \$1179, consistent with the amount on the budget. See BEM 505, pp. 7-8. The sum of Claimant's \$913 gross monthly unearned income and her partner's \$1179 gross monthly earned income resulted in \$2092 in total income for the household.

The evidence established that Claimant was a senior/disabled/veteran (SDV) member of her FAP group. Based on this fact and on Department policy, Claimant's group's income was eligible for the following deductions:

- a standard deduction of \$151 based on the two-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an earned income deduction equal to 20% of Claimant's partner's gross monthly income of \$1179, or \$236 in this case (BEM 556, p. 3);

- an excess shelter deduction, which takes into account Claimant's 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, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that she had no day care or child support expenses and that she had not provided the Department with any documentation concerning medical expenses. Claimant disputed the Department's conclusion that her monthly housing expenses totaled \$912.13. The Department presented documentation that Claimant paid a \$828.30 monthly mortgage, annual property taxes totaling \$131.99, and an annual \$874 homeowner's insurance premium. The monthly expense for the property taxes is \$11, and the monthly expense for insurance is \$72.83. The sum of the monthly expenses for Claimant's mortgage, property taxes and insurance is \$912.13, consistent with the shelter expense amount used by the Department in calculating the excess shelter deduction. Claimant did not present any documentation at the hearing to challenge the Department's position that housing expenses totaled \$912.13, as reflected in the Notice of Case Action. Based on monthly shelter expenses of \$912.13 and applying the \$553 heat and utility standard, Claimant's excess shelter deduction was properly calculated as \$613. BEM 556, pp. 4-5; BEM 554, p. 1.

Based on the information available to the Department at the time the budget was prepared, the Department properly reduced Claimant's household's \$2092 gross income by the \$151 standard deduction, a \$236 earned income deduction, and a \$613 excess shelter deduction. This results in monthly net income of \$1092. Based on net income of \$1092 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$19. BEM 556; RFT 260 (December 2013), p. 14.

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: February 3, 2014

Date Mailed: February 3, 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/tif

cc:

