

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

IN THE MATTER OF:

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

Reg. No.: 2014-23291
Issue No(s): 3008
Case No.: ██████████
Hearing Date: February 12, 2014
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her cousin ██████████, who also served as translator. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker.

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 October 19, 2013, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2013, she was approved for FAP benefits in the amount of ██████████ (Exhibit 1, pp.4-5)
3. Claimant did not agree with the Department's calculation of her FAP benefits.
4. On January 16, 2014, Claimant submitted a hearing request disputing the amount of her 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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2013), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1. In prospecting income, the Department is required to 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 pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 8. The Department is to apply a 20% earned income deduction to Claimant's total earned income. BEM 550 (July 2013), p. 1.

The Department will count the gross amount of money earned from Retirement, Survivors, and Disability Insurance (RSDI) as unearned income. BEM 503 (July 2013), p.28.

At the hearing, the FAP EDG Net Income Results budget for the November 1, 2013, benefit period was reviewed. (Exhibit 1, pp.2-3). The Department concluded that Claimant had earned income of [REDACTED] which came from Claimant's daughter's employment. In calculating Claimant's earned income, the Department testified that it considered Claimant's daughter's weekly earnings, specifically (i) [REDACTED] paid on August 9, 2013; (ii) [REDACTED] paid on August 16, 2013; (iii) [REDACTED] paid on August 23, 2013; and (iv) [REDACTED] paid on August 30, 2013. Claimant confirmed that the amounts relied on by the Department were correct and the Department provided earnings statement in support. (Exhibit 1, pp.8-11).

After further review, the Department properly calculated Claimant's earned income and applied the 20% earned income deduction.

The Department further concluded that Claimant had unearned income of \$ [REDACTED] which came from RSDI benefits that she and six children receive in the amount of \$ [REDACTED] each.

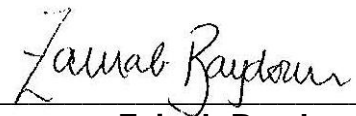
Claimant confirmed that she and six of her children receive monthly RSDI benefits of [REDACTED].

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of eight and the Budget Summary from the Notice of Case Action establishes that the [REDACTED] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department also considered housing costs of [REDACTED] which came from a land contract payment of \$ [REDACTED] and insurance of [REDACTED]. Claimant verified that the amount of her housing costs were correct.

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 did act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 18, 2014

Date Mailed: February 19, 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.

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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/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]