

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201420348
Issue No: 3008
Case No: [REDACTED]
Hearing Date: January 29, 2014
Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on December 30, 2013. After due notice, a telephone hearing was held on January 29, 2014. Claimant appeared and provided testimony. The department was represented by [REDACTED] [REDACTED] [REDACTED] an eligibility specialist with the department's Macomb County office.

ISSUE

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December 12, 2013, Claimant applied for FAP benefits.
2. On December 26, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that she had been approved for FAP benefits effective December 12, 2013, with the monthly FAP allotment being \$ [REDACTED] (Department Exhibits 1-8)
3. On December 30, 2013, Claimant submitted a hearing request protesting the department's determination of her FAP eligibility. (Request for Hearing)

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).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

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.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, Claimant's hearing request challenges the department's determination of Claimant's eligibility for FAP benefits of \$123.00 per month for the benefit period effective January 1, 2014.

At the January 29, 2014 hearing, the department's representative, Kelly Teed-Wheaton, testified and presented supporting documentation that the department's calculation of Claimant's \$ [REDACTED] monthly FAP allotment beginning January 1, 2014 was based on the department's verification of Claimant's monthly receipt of earned income totaling \$ [REDACTED] as well as Claimant's monthly receipt of unearned income (child support) in the amount of \$ [REDACTED]. Specifically, the department relied upon Claimant's reported receipt of pay checks on November 8, 2013, November 15, 2013, November 22, 2013, and November 29, 2013 in the amounts of \$ [REDACTED], \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED].

respectively. Ms. Teed-Wheaton testified that, as required by BEM 505, the department added up these four check amounts and determined a weekly average of \$ [REDACTED] which the department then multiplied by a conversion factor of 4.3, resulting in a total monthly earned income amount of \$ [REDACTED]. Ms. Teed-Wheaton further testified that the department determined Claimant's monthly receipt of child support in the amount of \$ [REDACTED] by obtaining an average based on her receipt of monthly support in September 2013, October 2013, and December 2013 in the amounts of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED].

Claimant's total monthly income of \$ [REDACTED] was thereafter reduced by an earned income deduction of \$ [REDACTED], a standard deduction of \$ [REDACTED] and a dependent care deduction of \$ [REDACTED] which left an adjusted gross income of \$ [REDACTED]. An excess shelter deduction of \$ [REDACTED] was then subtracted from Claimant's adjusted gross income leaving a monthly net income of \$ [REDACTED].

Claimant's excess shelter deduction of \$ [REDACTED] was determined by adding Claimant's monthly housing expenses to the \$ [REDACTED] standard heat and utility amount and subtracting half of Claimant's adjusted gross income. Claimant's monthly housing expense is \$ [REDACTED] which, when added to the \$ [REDACTED] standard heat and utility amount, resulted in a total housing expense of \$ [REDACTED]. Half of Claimant's adjusted gross income (\$ [REDACTED]) was then subtracted from Claimant's housing and utilities (\$ [REDACTED]) for an adjusted excess shelter amount of \$ [REDACTED]. Since Claimant does not meet the senior/disabled/veteran criteria, the department may only deduct the non-SDV shelter maximum amount of \$ [REDACTED] from Claimant's adjusted gross income. BEM 556.

Federal regulations at 7 CFR 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of three with net income of \$ [REDACTED] is entitled to a \$ [REDACTED] FAP allotment. Therefore, the department's determination of Claimant's FAP allotment in the amount of \$ [REDACTED] effective January 1, 2014 was correct.

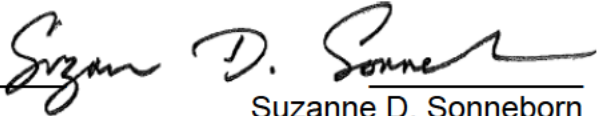
This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material and substantial evidence presented during the January 29, 2014 hearing, the department properly determined Claimant's eligibility for FAP benefits for the benefit period effective January 1, 2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's eligibility for FAP benefits for the benefit period effective January 1, 2014.

Accordingly, the department's actions in this regard are **UPHELD**.

It is **SO ORDERED**.



Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 31, 2013

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

SDS/hj

cc:



