

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

IN THE MATTER OF:



Reg. No.: 2014-23777
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Wayne (18)

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 February 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Assistant Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective January 1, 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 is an ongoing FAP recipient.
2. On December 2, 2013, Claimant submitted a completed redetermination. See Exhibit 1.
3. In the redetermination, Claimant indicated that her household size includes herself and her son. See Exhibit 1.
4. In the redetermination, Claimant also indicated that her son attends school full-time, he is [REDACTED]-years-old, and that he is employed 56 or more hours every bi-weekly pay period. See Exhibit 1.

5. On January 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for a group size of two effective January 1, 2014, ongoing, in the amount of \$15. See Exhibit 1.
6. On January 21, 2014, Claimant filed a hearing request, protesting the 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.

In this case, Claimant is an ongoing FAP recipient. On January 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for a group size of two effective January 1, 2014, ongoing, in the amount of \$15. See Exhibit 1.

At the hearing, it was not disputed that Claimant's group size is two and that the FAP group does contain senior/disabled/disabled veteran (SDV) members. Also, the Department presented Claimant's January 2014 FAP budget for review. See Exhibit 1.

The Department calculated Claimant's son gross earned income to be \$902. See Exhibit 1. Claimant disagreed that the Department should have not included her son's income in the budget. Moreover, Claimant disagreed with the amount calculated as well.

First, on December 2, 2013, Claimant submitted a completed redetermination. See Exhibit 1. In the redetermination, Claimant indicated that her household size includes herself and her son. See Exhibit 1. Moreover, Claimant also indicated that her son attends school full-time, he is ■-years-old, and that he is employed 56 or more hours every bi-weekly pay period. See Exhibit 1. Claimant testified that her son does reside with her, he attends school, and mostly works more than 20 hours a week.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (October 2013), p. 1.

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required.

BEM 245 (July 2013), p. 3. In order for a person in student status to be eligible, they must meet one of the criteria listed in BEM 245, which includes employment for at least 20 hours per week and paid for such employment. BEM 245, pp. 3-4.

Based on the foregoing information, the Department properly included Claimant's son income in the FAP budget calculation. The redetermination stated that Claimant's son is enrolled full-time and that he works more than 20 hours a week. Thus, Claimant's son is a person in student status. See BEM 245, pp. 1-4. Additionally, the son lives with the Claimant and is under the age of 22. Therefore, he is a mandatory FAP group member. See BEM 212, p. 1.

In summary, the Department properly included Claimant's son in the FAP group composition and also properly included his employment earnings in the FAP budget.

Second, Claimant also disputed the calculation of her son's gross earned income. Claimant testified that his gross income is \$800 to \$850.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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. 5.

When the Claimant submitted the redetermination, she also included two of her son's pay stubs. See Exhibit 1. A review of the pay stubs are as follows: (i) pay date of October 25, 2013, gross earnings of \$423.65, 57.25 hours worked, and biweekly pay; and (ii) pay date of November 22, 2013, gross earnings of \$419.95, 56.75 hours worked, and biweekly pay. See Exhibit 1. The Department also included a missing check calculation because Claimant did not submit a check for November 8, 2013. See Exhibit 1. The Department determined the gross amount of the missing check to be \$415.10. See Exhibit 1. Converting Claimant's biweekly income using all three pay stubs above, results in a standard monthly amount of \$902. See BEM 505, pp. 7-8. Moreover, using just the November pay stubs results in a standard monthly amount of \$897.

Based on the foregoing information and evidence, the Department properly calculated Claimant's son gross earned income. A review of the pay stubs submitted above results in an appropriate amount the Department calculated in accordance with Department policy. See BEM 505, pp. 7-8. It appears that the Department calculated the gross earned income based on the three amounts above. Nevertheless, a review of only the November 2013 pay stubs resulted in the amount similar to the FAP budget. Thus, the Department properly calculated Claimant's son gross earned income.

Additionally, the Department included Claimant's gross unearned income, which amounted to \$1,041 from her Retirement, Survivors, and Disability Insurance (RSDI) income. See Exhibit 1. See BEM 503 (January 2014), p. 28. Claimant did not dispute this amount. This resulted in a total income amount of \$1,943 (\$902 Claimant's son income plus \$1,041 Claimant's RSDI income). See Exhibit 1.

The Department then reduced Claimant's son income amount by a 20 percent earned income deduction. BEM 550 (July 2013), p. 1. Twenty percent of \$902 is \$181, which results in a post earned income of \$1,762. See Exhibit 1. The Department then applied the \$151 standard deduction applicable to Claimant's group size of two. RFT 255 (December 2013), p. 1. The Department also applied \$65 in medical deductions. See Exhibit 1.

It should be noted that Claimant is a SDV member. For groups with one more SDV member, the Department allows medical expenses for the SDV member that exceeds \$35. BEM 554 (July 2013), p. 1. Claimant testified that she does have medical expenses and agreed with the amount calculated by the Department for her medical deduction. Therefore, this resulted in an adjusted gross income of \$1,546 (\$1,762 post earned income minus \$151 standard deduction minus \$65 medical deduction). See Exhibit 1.

Because the Department properly calculated Claimant's adjusted gross income. The Department then determines Claimant's excess shelter deducton. As previously stated, Claimant is a SDV member. For groups with one or more SDV member, the Department uses excess shelter and Claimant is not subject to the standard shelter maximum for non-SDV members of \$478. RFT 255, p. 1.

Claimant's monthly housing expenses is \$605, which Claimant did not dispute. See Exhibit 1. 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. It should be noted that Claimant testified she does have car insurance expenses. However, this amount is not an allowable deduction. See BEM 554, pp. 1-29.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,158. See Exhibit 1. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,546 adjusted gross income. Fifty percent of the adjusted gross income is \$773. Then, the Department subtracts the total shelter amount from fifty percent of the gross income, which results in an excess shelter deduction of \$385. See Exhibit 1.

Finally, the Department subtracts the adjusted gross income from the excess shelter deduction, which results in a net income of \$1,161. 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, Claimant's proper FAP benefit issuance is found to be \$15, the same amount calculated by the Department. RFT 260 (December 2013), p. 15. Thus, the Department properly calculated Claimant's FAP budget in accordance with Department policy for the effective benefit period of January 1, 2014, ongoing.

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 benefits effective January 1, 2014, 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 27, 2014

Date Mailed: February 27, 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

EJF/tlf

cc:

