

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

IN THE MATTER OF:

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

Reg. No.: 2014-28104
Issue No(s): 1000;3008
Case No.: ██████████
Hearing Date: March 20, 2014
County: Wayne (17)

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 March 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Case Manager and ██████████, Case Worker, who served as translator.

ISSUE

Did the Department properly calculate the amount of Claimant's Family Independence Program (FIP) and 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 FIP and FAP benefits.
2. On February 3, 2014, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of ██████████, effective March 1, 2014. (Exhibit 1)
3. On February 11, 2014, Claimant submitted a hearing request disputing the Department's actions.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The hearing was requested to dispute the Department's action taken with respect to Claimant's FIP benefits. Shortly after commencement of the hearing, Claimant testified that she understands and is satisfied with the actions taken by the Department and that she no longer had any issues to address with respect to her FIP benefits. Claimant further confirmed that she did not wish to proceed with the hearing concerning FIP. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the FIP is hereby **DISMISSED**.

FAP

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 submitted a hearing request disputing the Department's calculation of her FAP benefits. The Department testified that after sending Claimant the Notice of Case Action informing her of the approval of FAP benefits in the amount of █████ monthly, it realized there was an error in the income calculation and recalculated Claimant's FAP budget to determine that she was now eligible for \$████.

The gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2014), pp. 28,31-32. Family Independence Program (FIP) benefits are considered unearned income of the head of household. BEM 503, p. 14.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 3). The Department concluded that Claimant had unearned income of \$1████ which it testified came from █████ in RSDI for Claimant's husband; █████ in SSI for Claimant; █████ in SSI for Claimant's husband and █████ in FIP benefits. The Department presented a SOLQ in

support of the Department's testimony. (Exhibit 4). Although Claimant confirmed that the amounts relied on by the Department were correct, after further review, the income amounts used by the Department do not total [REDACTED] as calculated by the Department.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of seven and the excess shelter deduction budget establishes that the [REDACTED] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs of [REDACTED], which Claimant confirmed was correct.

Because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of [REDACTED]. BEM 554, p 1. The Department testified that because no medical expenses were submitted, this deduction was not considered in the budget.

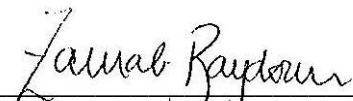
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that because of the errors in the calculation of Claimant's unearned income, the Department did not properly determine Claimant's net income and therefore, did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FIP is DISMISSED and the Department's FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP budget for March 1, 2014, ongoing; and
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2014, ongoing.



Zainab Baydoun

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

Date Signed: March 25, 2014

Date Mailed: March 25, 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

ZB/tm

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