

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-29026  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: April 17, 2014  
County: Oakland (02)

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 three-way telephone hearing was held on April 17, 2014 from Lansing, Michigan. Claimant personally appeared via telephone and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

**ISSUE**

Did the Department properly reduce Claimant's Food Assistance Program (FAP) monthly allotment amount?

**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 active for FAP with an \$ [REDACTED] monthly allotment.
2. Claimant's FAP case was scheduled for redetermination in January, 2014.
3. On February 6, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced her monthly FAP to \$ [REDACTED] effective February 1, 2014.
4. On February 18, 2014, the Department received Claimant's request for hearing to challenge the FAP reduction.

## **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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. 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. BEM 500.

The Department's computer system known as "Bridges" will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505.

BEM 550 describes the Department's FAP income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior<sup>1</sup>, disabled person<sup>2</sup> or a veteran member of that group. BEM 550 (2-1-2014) p 1. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group<sup>3</sup> must have income below the net income limits. BEM 550, p 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p 1.

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<sup>1</sup> A "senior" is a person at least 60 years old. BEM 550 p 1.

<sup>2</sup> A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

<sup>3</sup> An SDV FAP group is one which has an SDV member. BEM 550 p 1.

The Department will use only available, countable income to determine eligibility. BEM 550. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550.

The Department will budget the entire amount of earned and unearned countable income. BEM 550. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550. Every case is allowed the standard deduction shown in RFT 255. BEM 550. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554, (2-1-2014), p 1. For groups with no SDV member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

An expense is allowed if all of the following are present: (1) the service is provided by someone outside of the FAP group; (2) someone in the FAP group has the responsibility to pay for the service in money and (3) verification is provided, if required. BEM 554. "Responsibility to pay" means that the expense is in the name of a person in the FAP group. BEM 554. **Exception:** If the expense is in someone else's name, the Department will allow the expense if the FAP group claims the expense, **and** the service address on the bill is where they live. BEM 554. The Department will **not** allow any expense if the entire expense is directly paid by an agency or someone outside of the group. BEM 554.

The Department **must** verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department may **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued **only** if the expense could **not** be verified within 30 days of the application and the local office was at fault. BEM 554.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554.

Here, Claimant requested a hearing because the Department reduced her monthly FAP from \$ [REDACTED] to \$ [REDACTED]. The Department, on the other hand, takes the position that Claimant's FAP reduction following redetermination was proper because she received

an increase in her monthly RSDI payments from the SSA and she reported, at redetermination, that her previous medical expenses had ended.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Here, Claimant's monthly unearned income (RSDI) increased from \$ [REDACTED] to \$ [REDACTED]. During the hearing, the Administrative Law Judge noticed that Claimant was very difficult to understand. At times, Claimant would appear to provide inconsistent testimony or the statement she made would not make sense. The record reveals that the Department worker attempted to conduct a telephone interview with Claimant at redetermination. Claimant during the hearing stated that she always continued to make her medical and mental health appointments and that the Department caseworker misinterpreted what she had said during the redetermination. Based on Claimant's statements made during the redetermination, the Department worker, in good faith, believed that Claimant no longer attended her medical appointments, which would mean that her \$ [REDACTED] medical deduction expense should no longer be budgeted. Claimant had never provided the Department with proper verification of these medical expenses in the first place.

In any event, the record shows that Claimant was receiving monthly unearned income (RSDI) in the amount of \$ [REDACTED] at the time relevant to this matter. Claimant's total monthly income of \$ [REDACTED] which is reduced by a standard deduction of \$ [REDACTED] and a medical deduction of \$ [REDACTED] leaves an adjusted gross income of \$ [REDACTED]. This amount is reduced by a shelter deduction of \$ [REDACTED] leaves a net income of \$ [REDACTED]. A claimant with a group size of 1 has a maximum net income limit of \$ [REDACTED] RFT 250. Because Claimant had a certified group size of 1 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED]. See RFT 260.

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 reduced Claimant's monthly FAP from \$ [REDACTED] to \$ [REDACTED].

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.



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**C. Adam Purnell**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 22, 2014

Date Mailed: April 22, 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.

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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

CAP/las

cc:

