

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31419
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 3, 2014
County: Macomb (20)

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 telephone hearing was held on April 3, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] (Claimant's mother). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Hearing Facilitator).

ISSUE

Did the Department properly reduce Claimant's monthly Food Assistance Program (FAP) allotment due to a decrease in the shelter expense?

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 a group size of 4.
2. The Department budgeted Claimant's monthly shelter expense as \$ [REDACTED]
3. Claimant had a monthly allotment of \$ [REDACTED]
4. On March 4, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's monthly FAP effective April 1, 2014 to \$ [REDACTED] due to a reported decrease in her shelter expense to \$ [REDACTED]
5. Claimant requested a hearing to challenge the FAP reduction on March 10, 2014.

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.

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** senior/disabled/disabled veteran (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.

If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, allow **only** the amount that the group is responsible to pay, **unless** specific policy directs otherwise. Example: HUD pays \$150 toward a FAP group's \$325 rental expense. Allow only the \$175 (\$325 rent - \$150 HUD pays = \$175) that the group is expected to pay. BEM 554, p 2.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. DHS must verify the responsibility to pay and the amount of certain expenses; see the individual expense policy for verification requirements. Document verification in the case record. Do not budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554, p 3.

Treat 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, p 3.

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense. BEM 554, p. 12.

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p 14.

Here, the Department contends that Claimant's monthly FAP reduced due to a reduction in her shelter expense from \$ [REDACTED] per month to \$ [REDACTED]. The Department asserts that Claimant lived in Section 8 housing and that her total rent amount was \$ [REDACTED] and that she was provided with \$ [REDACTED] per month in housing assistance, which leaves \$ [REDACTED]. Claimant, on the other hand, contends that she pays \$ [REDACTED] per month and had paid that amount since May, 2013.

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The sole issue concerns whether the Department appropriately reduced her shelter expense. The Department provided a Bridges document which shows that Claimant's MSHDA rental obligation was \$ [REDACTED]. Claimant, however, did not provide any documentation to show otherwise. Other than the shelter expense, Claimant did not dispute the Department's calculations of her income and other expenses.

Claimant was receiving monthly unearned income in the amount of \$ [REDACTED] at the time relevant to this matter. Therefore, Claimant's group received a total monthly income of \$ [REDACTED] which is reduced by a standard deduction of \$ [REDACTED] which leaves an adjusted gross income of \$ [REDACTED]. An excess shelter deduction of \$ [REDACTED] was subtracted from Claimant's adjusted gross income of \$ [REDACTED] resulting in Claimant receiving \$ [REDACTED] in net income.

A claimant with a group size of 4 has a maximum net income limit of \$ [REDACTED] RFT 250. The Department properly determined Claimant's monthly FAP allotment of \$ [REDACTED]. Because Claimant had a certified group size of 4 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.

DECISION AND ORDER

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

IT IS SO ORDERED.



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

Date Signed: April 7, 2014

Date Mailed: April 7, 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

CAP/las

cc:

