

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

IN THE MATTER OF:



Reg. No.: 2014-12508
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 7, 2014
County: Wayne (57)

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 April 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and his Authorized Hearing Representative/caregiver (AHR), [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Claimant's 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 FAP benefits.
2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 1)
3. On October 25, 2013, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2013, he was approved for FAP benefits in the amount of \$15.

4. On November 6, 2013, Claimant submitted a hearing request disputing the amount of his FAP benefits.

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.

Additionally, the Department includes the gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) and veteran pension and compensation payments as unearned income. BEM 503 (July 2013), pp.28-29, 35-36. The pension and compensation payment can include aid and attendance or housebound allowances, which are not identifiable on a check stub or award letter. The Department is to accept the client's statement that the payment does not include any additional allowances. BEM 503, p.36.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 2). The Department concluded that Claimant had unearned income of \$1717 which it testified came from \$771 in RSDI benefits and \$946 in veteran compensation benefits. The Department presented an SOLQ in support of its testimony concerning the amount of RSDI benefits. (Exhibit 3). Claimant's AHR testified however, that Claimant does not receive the full \$946 in veteran benefits and that part of that amount goes towards aid and attendance. BEM 503 provides that although the Department is to count the gross amount of the veteran pension or compensation as unearned income, the Department is to exclude any portion of a payment resulting from an aid and attendance allowance or a housebound allowance, except the \$90 reduced VA payment made to certain MA recipients in Medicaid-certified long term care facilities. See BEM 546. BEM 503, pp.35-36. The Department acknowledged that it may have included the aid and allowance portion of the award as part of Claimant's unearned income but that it just became aware that the veteran benefit included this allowance. Therefore, the Department did not properly calculate Claimant's unearned income.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's confirmed group size of one and the Department testified that it considered Claimant's confirmed housing costs of \$454. The \$553.00 standard heat and utility deduction available to all FAP recipients was also properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15.

Additionally, 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 \$35.00. BEM 554, p 1. The Department properly determined that Claimant was eligible for a medical deduction of \$70, based on an ongoing insurance premium of \$104.90 that is deducted from Claimant's RSDI benefits.

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 after further review of the evidence presented, because of the errors in the calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, 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 November 1, 2013, ongoing; and
2. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from November 1, 2013, ongoing.



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

Date Signed: April 10, 2014

Date Mailed: April 10, 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/tlf

cc:

