

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No.:
Case No.:
Hearing Date:
County:

[REDACTED]

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 [REDACTED] from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's daughter-in-law/Authorized Hearing Representative (AHR) and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly determine 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 a group size of 2.
2. Claimant, at all relevant times, received \$ [REDACTED] in monthly gross unearned income.
3. On [REDACTED], the Department mailed Claimant a Notice of Case Action (DHS-1605) which, effective [REDACTED], approved Claimant for a \$ [REDACTED] monthly FAP allotment.

4. On [REDACTED] Claimant's AHR requested a hearing to dispute the monthly FAP allotment.

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.

Here, Claimant contends that the Department improperly calculated her monthly FAP and that \$ [REDACTED] in FAP benefits per month is not enough. Department, on the other hand, contends that it properly determined Claimant's monthly FAP amount based on her countable income, allowable expenses and applicable policies. Claimant did not challenge any of the Department's calculations or did she dispute any of the income or expenses that were budgeted.

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 record reveals that Claimant's shelter expense was \$ [REDACTED]. Claimant was receiving monthly unearned income in the amount of \$ [REDACTED] at the time relevant to this matter. Claimant's group received a total monthly income of \$ [REDACTED] which is reduced a standard deduction of \$ [REDACTED] and less \$ [REDACTED] for a medical deduction, 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 2 has a maximum net income limit of \$ [REDACTED] RFT 250. Because Claimant had a certified group size of 2 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED]. See RFT 260.

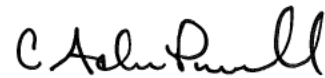
The Department also argued that it erred when it determined Claimant's monthly FAP should be \$ [REDACTED] because the \$ [REDACTED] medical deduction was incorrectly used as an ongoing medical expense. The Department, on [REDACTED], mailed Claimant a Notice of Case Action which reduced Claimant's monthly FAP to \$ [REDACTED]. However, Claimant did not request a hearing to cover the [REDACTED] notice of case action as her request for hearing was received earlier on [REDACTED] and concerned the \$ [REDACTED] FAP allotment amount.

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 determined Claimant was eligible for a \$ [REDACTED] monthly FAP allotment.

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: May 21, 2014

Date Mailed: May 21, 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/nr

cc:

