

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

IN THE MATTER OF:



Reg. No.: 14-001804
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: JUNE 5, 2014
County: OAKLAND-DISTRICT 2

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager; [REDACTED], Family Independence Specialist; and [REDACTED], translator.

ISSUE

Did the Department properly calculate 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 is an ongoing recipient of FAP benefits.
2. Claimant's FAP group consists of Claimant, his wife, their minor child, and two adult children, T and R, who are both employed.
3. When it became aware that T was employed, the Department recalculated Claimant's FAP budget to include T's earned income.
4. On April 24, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective June 1, 2014, his monthly FAP benefits were decreasing to \$66.

5. On May 15, 2014, Claimant filed a request for hearing 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).

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, Claimant requested a hearing concerning the decrease in his FAP benefits. The Department testified that Claimant's FAP benefits were reduced because his 18-year-old daughter T was employed, and, when her employment income was included in the FAP budget, Claimant was eligible for \$66 in monthly FAP benefits beginning June 2014.

Claimant acknowledged that his daughter T was 18 years old and employed. Under Department policy, T was a mandatory group member and her income is considered in the calculation of Claimant's FAP group's income. BEM 501 (January 2014), p. 2; BEM 212 (February 2014), p. 1. At the hearing, Claimant testified that T, as well as his daughter R, were planning on moving out of the household in August 2014. Claimant was advised to report the change to the Department when it occurred and the change would be processed at that time. BAM 105 (April 2014), p. 16. Because T was in the household at the time the Department became aware of her employment, it properly included her and her income in Claimant's FAP budget for June 2014 ongoing until a change is reported and verified.

The evidence at the hearing established that Claimant's FAP group as of June 1, 2014 consisted of five people: Claimant, his wife, their minor child, and two adult children, T and R. The Department testified that a sixth member of Claimant's household was excluded because she was an ineligible student. Claimant confirmed that his daughter was a 21-year-old full-time college student and was not employed. Therefore, she was not an eligible student and the Department properly excluded her from the FAP group. BEM 245 (July 2013), pp. 3-5. Claimant indicated that his daughter H was unable to work because she suffers from migraines. Claimant is advised that if he presents verification to the Department that H is physically or mentally unfit for employment, she would be an eligible FAP group member and added back to his FAP group. BEM 245, p. 4. Based on the information available to the Department at the time it recalculated

Claimant's FAP budget, the Department properly concluded that there were 5 members in Claimant's FAP group.

The Department presented a FAP budget that was reviewed with Claimant at the hearing. The budget showed gross monthly earned income totaling \$2226. The evidence at the hearing established that the income was the sum of (i) Claimant's daughter R's gross monthly income of \$990 that had previously been budgeted in the calculation of Claimant's FAP budget and (ii) T's gross monthly earned income of \$1236 based on her current earnings at CVS retrieved from the Work Number, the Department-accessible database in which employers list employment information. The Department testified that it based T's gross monthly earnings on the \$529.77 she received on April 4, 2014 and \$620.50 she received on April 18, 2014. The average of this biweekly pay, multiplied by 2.15 in accordance with Department policy, results in gross monthly income of \$1236, consistent with the Department's calculation. BEM 505 (July 2013), pp. 7-8.

Claimant confirmed his monthly unearned income from Supplement Security Income (SSI) (\$721), State Supplemental Payment (SSP) (\$14 based on \$42 quarterly payment), and Family Independence Program (FIP) grant (\$274). Based on the confirmed figures, the Department properly calculated Claimant's group's unearned income to be \$1005.

The sum of the FAP group's earned and unearned income is \$3231. Because Claimant's household had earned income and Claimant was a senior/disabled/veteran (SDV) member of his FAP group, he was eligible for the following deductions from the \$3231 gross income:

- An earned income deduction totaling 20% of the group's earned income, or \$446 in this case (BEM 556 (July 2013), p. 3);
- a standard deduction of \$190 based on his five-person group size (RFT 255 (December 2013), p. 1; BEM 556, p. 4);
- an excess shelter deduction of \$316, which takes into account monthly housing expenses of \$1060, which Claimant confirmed, and the \$553 heat and utility standard that continues to apply to Claimant's case (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- verified expenses for child care, child support and Claimant's medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that he had no day care or child support expenses and had not verified any out-of-pocket medical bills to the Department.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly reduced Claimant's gross income of \$3231 by the \$446 earned income deduction, the \$190 standard deduction and the \$316 excess shelter deduction, resulting in monthly net income of \$2279. Based on net income of \$2279 and a FAP group size of five, the

Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$66. BEM 556; RFT 260 (December 2013), p. 29.

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 calculated Claimant's monthly FAP benefits for June 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin

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

Date Signed: **6/13/2014**

Date Mailed: **6/13/2014**

ACE / ttf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

