

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001881
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: JUNE 4, 2014
County: MACOMB-DISTRICT 12

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 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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. In connection with a redetermination, Claimant reported receiving monthly Retirement Survivors and Disability Insurance (RSDI) income of \$1172.
3. On April 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that effective May 1, 2014 the Department approved her for monthly FAP benefits of \$15.
4. On May 2, 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 was receiving monthly FAP benefits of \$189. In connection with a redetermination, the Department recalculated Claimant's FAP budget to take into consideration her RSDI income. Claimant requested a hearing after the April 16, 2014 Notice of Case Action advised her that her monthly FAP benefits were decreasing to \$15.

The Department presented a FAP budget that was reviewed with Claimant at the hearing. The budget showed that Claimant had unearned gross monthly RSDI income of \$1172 and that she was the only member of his FAP group. Claimant did not dispute this information.

Because Claimant did not have any earned income and she was a senior/disabled/veteran (SDV) member of his FAP group, she was eligible for the following deductions under Department policy:

- a standard deduction of \$151 based on her one-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account monthly housing expenses and the \$553 heat and utility standard that continues to apply to Claimant's case because her redetermination occurred prior to May 2014 (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that she had no day care or child support expenses. The Department testified that Claimant did not report any medical expenses in her redetermination. Claimant admitted that she had not submitted any medical bills to the Department although she did have out-of-pocket medical expenses. Because Claimant did not verify any medical expenses in excess of \$35, the Department properly did not consider any medical expenses in Claimant's budget. BEM 554, pp. 11-12. Claimant is advised to provide verification of out-of-pocket medical expenses to the Department for possible consideration in future FAP budgets.

The Department testified that Claimant's excess shelter deduction was based on monthly shelter expenses of \$129.75 and the \$553 heat and utility standard. The Department explained that, because Claimant did not have any mortgage expenses or homeowner's insurance premiums, the shelter expenses were based on her 2013 winter and summer taxes which totaled \$1556.99. This amount, divided by 12, resulted in monthly shelter expenses of \$129.75, consistent with the Department's calculation. Based on the \$553 heat and utility standard and \$129.75 property tax expense information available to the Department at the time it processed Claimant's FAP budget, the Department properly determined that Claimant was eligible for a \$173 excess shelter deduction.

Although Claimant testified that she was also responsible for \$1000 in delinquent property taxes, she had not previously advised the Department of this expense. It is noted that payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. BEM 554, p. 13. Claimant is advised to provide documentation of her delinquent mortgage payments for the Department to process in accordance with policy.

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 \$1172 by the \$151 standard deduction and the \$173 excess shelter deduction, resulting in monthly net income of \$848. Based on net income of \$848 and a FAP group size of one, the Department acted in accordance with Department policy when it Claimant was eligible for monthly FAP benefits of \$15. BEM 556; RFT 260 (December 2013), p. 11.

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.

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: **6/11/2014**

Date Mailed: **6/11/2014**

ACE / tf

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:

