

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002520
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 16, 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 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's friend. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's monthly 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, the Department sent Claimant a Notice of Case Action on May 8, 2014 notifying her that she was approved for \$189 in monthly FAP benefits for March 2014 and for \$30 in monthly FAP benefits for April 1, 2014 ongoing.
3. On May 13, 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. Claimant requested a hearing after the May 8, 2014 Notice of Case Action advised her that her monthly FAP benefits were decreasing to \$30 effective April 1, 2014.

The Department presented a FAP budget that was reviewed with Claimant at the hearing. The budget showed that Claimant had unearned gross monthly Retirement Survivors and Disability Insurance (RSDI) income of \$778 and that she was the only member of her FAP group. Claimant did not dispute this information.

Claimant also did not dispute the calculation of her \$145.66 monthly shelter expenses and acknowledged that she had no child care or child support expenses. Based on her one-person group size, the Department properly applied a standard deduction of \$151 to calculate her net income. RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4. As a senior/disabled/veteran (SDV) member of her FAP group, Claimant is eligible for a deduction for out-of-pocket medical expenses in excess of \$35. BEM 554, pp. 1, 11-12. Claimant admitted that she had not presented any verified medical expenses to the Department.

The only real issue at the hearing was the calculation of Claimant's gross monthly self-employment income which the budget showed as \$228. Claimant is a self-employed hairdresser. Countable income from self-employment equals (i) the total proceeds of self-employment **minus** (ii) allowable expenses of producing the income, which is the higher of 25 percent of total proceeds or actual expenses if the client chooses to claim and verify the expenses. BEM (January 2014), p. 3.

Self-employment income must be verified at redetermination. BEM 502, p. 6. Self-employment is verified as follows:

Primary source: Income tax return is used provided that (i) the client has not started or ended self-employment, or received an increase/decrease in income, etc., (ii) the tax return is still representative of future income, and (iii) the client filed a tax return.

Secondary source: DHS-431, Self-Employment Statement, with all income receipts to support claimed income.

Third source: DHS-431, Self-Employment Statement, without receipts. When this verification source is used, a Front End Eligibility (FEE) referral is required and the case may not open until the FEE investigation is completed.

BEM 502, p. 7.

In this case, the Department testified that Claimant submitted a handwritten list of her income for the three months preceding the redetermination with no supporting receipts and was asked if she had a tax return. Because Claimant's 2013 federal return had not been prepared at the time the request was initially made, Claimant submitted her 2012 tax return. Based on gross annual earnings of \$3710 reported in the 2012 federal taxes, the Department concluded that Claimant had gross monthly self-employment total proceeds of \$309 (\$3710 divided by 12).

At the hearing, the Department contended that the 2012 tax return was properly considered in connection with the calculation of Claimant's prospective self-employment income because the monthly amount calculated from the return was consistent with that Claimant had reported in her handwritten documentation for the three months prior to the redetermination. The handwritten documentation shows that Claimant reported gross self-employment proceeds of \$312 in November 2013, \$229 in December 2013, and \$145 in January 2014. No February 2014 proceeds were reported but \$294 was reported in March 2014. Contrary to the Department's position, the self-reported total proceeds for November 2013 through January 2014, the three months preceding the February 2014 redetermination, averaged \$228 monthly and were not consistent with the \$309 monthly calculation made by the Department. Therefore, the 2012 tax return was not representative of future income and should not have been relied upon by the Department to calculate self-employment income. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's self-employment total proceeds.

Because of the improperly calculated self-employment income, 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 did not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's 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 benefits for April 1, 2014 ongoing; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for April 1, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin

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

Date Signed: **6/20/2014**

Date Mailed: **6/23/2014**

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:

