

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

IN THE MATTER OF:

██████████
████████████████████
██████████

Reg. No.: 14-006250
Issue No.: 3008
Case No.: ██████████
Hearing Date: July 31, 2014
County: WAYNE-DISTRICT (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly decrease Claimant's Food Assistance Program (FAP) allotment to the amount of \$118 effective July 1, 2014, ongoing?

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. On June 4, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$118 effective July 1, 2014, ongoing. See Exhibit 1, pp. 7-9.
3. On June 16, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 2-3.

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.

In this case, Claimant is an ongoing recipient of FAP benefits. On June 4, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$118 effective July 1, 2014, ongoing. See Exhibit 1, pp. 7-9.

It was not disputed that the certified group size is two and that no group members are senior/disabled/disabled veteran (SDV) member(s). The Department presented the July 2014 FAP budget for review from the Notice of Case Action dated June 4, 2014. See Exhibit 1, pp. 7-9. The Department also presented the August 2014 FAP budget for review. See Exhibit 1, pp. 4-5. A review of both budgets indicated all of the calculations were similar, other than the housing costs, which will be addressed later in this decision. See Exhibit 1, pp. 4-9.

The Department calculated a gross unearned income amount of \$1,392. See Exhibit 1, pp. 4-9. This amount comprised of Claimant's son's \$722 in Retirement, Survivors, and Disability Insurance (RSDI) income, which she did not dispute. See BEM 503 (January 2014), p. 28. Also, the unearned income comprised of Claimant's \$670 in child support income, which she also did not dispute. See BEM 503, pp. 6-9 and BEM 505 (July 2013), pp. 3-5.

Then, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of two, which resulted in an adjusted gross income of \$1,241. RFT 255 (December 2013), p. 1 and see Exhibit 1, p. 4.

Additionally, for groups with no SDV member(s), the Department uses excess shelter up to the maximum of \$478. See BEM 554 (May 2014), p. 1 and RFT 255, p. 1. The July 2014 FAP budget indicated that Claimant's housing costs were \$625; however, the August 2014 FAP budget showed Claimant's housing costs to be \$900. See Exhibit 1, pp. 6 and 8. The Department was unable to testify as to this discrepancy. Claimant testified that her housing cost has been \$900 since on or around May 2014, ongoing. Moreover, the Department did not dispute that her housing cost has been \$900.

Nevertheless, the discrepancy in the Claimant's housing costs is harmless error by the Department because Claimant was afforded the maximum excess shelter deduction of \$478. See BEM 554, p. 1; RFT 255, p. 1, and Exhibit 1, p. 6. A review of the budgets indicated that Claimant would receive the maximum excess shelter deduction when budgeting either the \$625 or \$900 housing cost. Thus, this is harmless error by the Department as Claimant was afforded the maximum excess shelter deduction.

Furthermore, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. RFT 255, p. 1 and see also BEM 554, p. 15 (changes effecting the mandatory heat and utility standard effective May 1, 2014).

The Department then subtracts the \$478 excess shelter deduction from the \$1,241 adjusted gross income, which results in a net income of \$763. See Exhibit 1, pp. 4-9. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$118 effective July 1, 2014, ongoing. RFT 260 (December 2013), p. 10.

DECISION AND ORDER

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 properly calculated Claimant's FAP allotment in the amount of \$118 effective July 1, 2014, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.


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

Date Signed: **8/4/2014**

Date Mailed: **8/4/2014**

EJF/cl

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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