

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

IN THE MATTER OF:

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

Reg. No.: 14-006272
Issue No.: 3008
Case No.: ██████████
Hearing Date: July 31, 2014
County: WAYNE-DISTRICT (57)

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 ██████████ Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$74 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 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$74 effective July 1, 2014, ongoing. See Exhibit 1, pp. 12-14.
3. On June 30, 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.

As a preliminary matter, Claimant testified that she was also disputing additional program(s), i.e., Medical Assistance (MA). However, a review of Claimant's hearing request only indicated that she disputed her FAP allotment. See Exhibit 1, p. 3. As such, this hearing decision will only address whether the Department properly calculated Claimant's FAP allotment effective July 1, 2014.

In this case, Claimant is an ongoing recipient of FAP benefits. On June 17, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$74 effective July 1, 2014, ongoing. See Exhibit 1, pp. 12-14.

It was not disputed that the certified group size is three and that there are no senior/disabled/disabled veteran (SDV) members. The Department presented the July 2014 FAP budget for review. See Exhibit 1, pp. 9-10.

The Department calculated a gross earned income amount of \$1,952, which the Claimant disputed. See Exhibit 1, p. 9. The Department testified, though, that it improperly calculated Claimant's gross earned income. The Department testified that it appeared to budget additional income for the Claimant. Furthermore, the Department testified this income appeared to originate from Claimant's other employment that had previously ended. Thus, the Department erred in the calculation of Claimant's gross earned income due to the discovery of the additional income that should not have been budgeted.

Moreover, Claimant testified that her employment had ended on June 24, 2014 and notified her local DHS office of her employment ending on June 30, 2014. Claimant testified that she did not have any other form of income for July 2014. The Department acknowledged receiving documentation of Claimant's employment ending, but could not confirm a receive date.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included

in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

For stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505, p. 7. The Department uses the best available information to determine the amount of the last check expected. BEM 505, p. 7. The Department uses information from the source and from the client. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7.

Based on the above information, the Department improperly calculated Claimant's gross earned income. First, the Department acknowledged that it erred in calculation of the gross earned income. Second, though, Claimant testified that her employment had ended and she notified the Department in late June 2014. BEM 505 states that for stopping of income, the Department budgets the final income expected to be received in the benefit month and removes stopped income from the budget for future months. BEM 505, p. 7. Thus, the Department will recalculate Claimant's income and determine if it will remove the stopped income from the July 1, 2014, ongoing, FAP budget in accordance with Department policy. See BEM 505, p. 7.

Additionally, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of three. RFT 255 (December 2013), p. 1 and Exhibit 1, p. 9.

Also, the Department properly applied the heat/utility standard for the Claimant in the amount of \$553. RFT 255, p. 1 and Exhibit 1, p. 11. Finally, the Department calculated Claimant's housing expenses to be \$0; however, Claimant testified that her rental obligation is \$400. See Exhibit 1, p. 11. Claimant testified that she has resided in the same location since 2011 and has provided to the Department verification of her rent in the past. The Department did not have any verification of her rental obligations.

For groups with no SDV members, the Department uses the excess shelter up to the maximum in RFT 255. BEM 554 (May 2014), p. 1. The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department removes the old expense until the new expense is verified. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's shelter expenses. Claimant credibly testified that she has resided in the same location since 2011 and has provided verification to the Department previously.

Claimant's credibility is substantiated by her ability to report changes as required, i.e., reported that her employment had ended in late June 2014. As such, Claimant credibly testified that she has provided proof of her shelter obligations in the past and the Department failed to properly budget her shelter expenses in accordance with Department policy. See BEM 554, pp. 1, 12, and 14. The Department will verify Claimant's shelter expenses and recalculate the shelter expenses effective July 1, 2014, ongoing. See BAM 130 (April 2014), pp. 1-9 and BEM 554, p. 14.

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 did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective July 1, 2014.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget for July 1, 2014, (including the earned income and shelter expenses) and in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.


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]