

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-008076
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on September 24, 2014, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Specialist, and [REDACTED] Manager, testified on behalf of the Department of Human Services (DHS).

ISSUES

The first issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility, effective 7/2014.

The second issue is whether DHS properly recouped \$48 of 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 FAP benefit recipient.
2. On an unspecified date, DHS determined Claimant was eligible for \$232 in gross FAP benefits for 7/2014 with \$23 of the benefits to be administratively recouped.
3. On a subsequent date, DHS issued a FAP supplement of \$223 to Claimant, with an additional \$25 in FAP benefits to be applied to a recoupment balance.
4. On [REDACTED], Claimant requested a hearing to dispute her FAP benefit issuance for 7/2014, including the amount of benefits recouped.

CONCLUSIONS OF LAW

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute the amount of her FAP benefit issuance for 7/2014. BEM 556 outlines how FAP benefits are determined.

The first FAP budget factor is household income. It was not disputed that Claimant's household received \$1123/month in unearned income. Claimant's income came from the Social Security Administration and State of Michigan issued Supplemental Security Income benefits.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35 per month copayment to monthly medical expenses. Claimant did not allege that she had monthly day care, child support or medical expenses.

Claimant's FAP benefit group receives a standard deduction of \$151. RFT 255 (10/2012), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$972.

It was not disputed that Claimant's housing obligation was \$850/month. It was not disputed that Claimant received the standard heat credit of \$553 (see RFT 255 (10/2013, p. 1), the maximum utility credit allowable. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is \$1403.

DHS only credits FAP benefit groups with what DHS calls an “excess shelter” expense. This expense is calculated by taking Claimant’s total shelter obligation and subtracting half of Claimant’s adjusted gross income. Claimant’s excess shelter amount is found to be \$917.

The FAP benefit group’s net income is determined by taking the group’s adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group’s net income is found to be \$55. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant’s group size and net income, Claimant’s proper FAP benefit issuance is found to be \$480, the same amount calculated by DHS (see Exhibit 2).

Claimant expressed specific annoyance at the process that it took to arrive at a \$480/month issuance amount. It was not disputed that DHS originally issued \$232 in gross FAP benefits to Claimant. Claimant testified that she waited for several weeks for DHS to supplement the issuance. Claimant testified that the wait caused her family substantial hardship. Claimant’s testimony was sincere, however, an administrative remedy beyond insuring the proper benefit issuance is not appropriate.

Claimant also questioned why she received a benefit notice stating that she should receive \$487 in FAP benefits. DHS responded that the notice mentioned by Claimant reflected a benefit calculation based on an inaccurate household income amount. The DHS testimony was credible as Claimant conceded that her household income was \$1123, and not the \$1100 reflected on the improperly mailed notice. Ideally, the notice should not have been mailed to Claimant, however, Claimant is not entitled to receive FAP benefits for which she was not eligible simply because DHS mistakenly mailed a notice.

Claimant also objected that \$48 of the \$480/month issuance for 7/2014 was reduced by administrative recoupment. Claimant did not dispute that DHS was entitled to recoup 10% of her FAP benefits. Claimant instead contended that DHS should have waited until 8/2014 to begin recoupment.

Active programs are subject to Administrative Recoupment (AR) for repayment of overissuances. BAM 725 (7/2014), p. 6. Administrative recoupment continues until program closure or all collectible overissuances are repaid. *Id.*

Claimant testified that she was verbally told that recoupment would not begin until 8/2014 and that she possessed some document which verified that recoupment would not begin until 8/2014. Claimant failed to present the document verifying a recoupment begin date of 8/2014. DHS policy provides no guidance on when DHS may begin to recoup benefits. Presumably, DHS can recoup benefits at any time after a basis for recoupment exists.

In the present case, DHS established a basis to recoup \$1,002 in FAP benefits from Claimant and DHS quickly began recoupment against Claimant. Thus, it cannot be stated that DHS acted improperly by recouping FAP benefits from Claimant beginning 7/2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility to be \$480 beginning the month of 7/2014. It is further found that DHS was authorized to recoup FAP benefits from Claimant beginning 7/2014. The actions taken by DHS are **AFFIRMED**.

Christian Gardocki

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

Date Signed: **10/3/2014**

Date Mailed: **10/3/2014**

CG / hw

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:

