

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010295
Issue No.: 3001
Case No.: ██████████
Hearing Date: October 13, 2014
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 13, 2014, from Detroit, Michigan. Claimant appeared for the hearing, but did not provide testimony as he is disabled and unable to speak. Participants on behalf of Claimant included his father/Authorized Hearing Representative (AHR) ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist/Medical Contact Worker, and ██████████, Bengali Agency Translator.

ISSUE

Did the Department properly process 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 was an ongoing recipient of FAP benefits.
2. Claimant was approved for FAP benefits in the amount of \$15 for August 2014. (Exhibit 1)
3. On August 19, 2014, Claimant submitted a hearing request disputing the calculation of his FAP benefits.

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 submitted a hearing request disputing the Department's calculation of his FAP benefits. At the hearing, the Department testified that Claimant's FAP benefits were calculated based on a group size of one (Claimant), as the Department determined that Claimant's wife was a disqualified member of the FAP group because she failed to meet the citizenship/alien status eligibility factor.

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. Individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (July 2014), p 1; BEM 212 (July 2014), p.8. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) if not in the U.S. for five years, have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) are lawfully residing in the U.S. and disabled. BEM 225, pp.3-6, 8-9.

Claimant's AHR testified that Claimant's wife entered the U.S. on May 17, 2013 and that she received her permanent residency card two months later, which he presented at the hearing. (Exhibit A). Although the Department testified that Claimant's wife would be eligible to receive FAP based on her receipt of a permanent residency card, after further review, Claimant's wife does not have acceptable alien status, as she has been in the U.S. less than five years and her permanent residency card does not show a class code of RE, AS, SI, AM or SQ. Although Claimant is disabled and his wife is his caretaker, it was not alleged that Claimant's wife was disabled herself, nor did she meet the SSC requirements. Thus, Claimant's wife does not meet any of the criteria for FAP eligibility, and accordingly, the Department properly excluded her from the FAP group as a disqualified person.

At the hearing, the FAP EDG Net Income Results Budget for August 1, 2014, was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$15 in monthly FAP benefits. (Exhibit 1).

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32. State SSI Payments (SSP) are issued

quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248.

The Department concluded that Claimant had unearned income of \$735 which it testified came from \$721 in SSI benefits and \$14 in SSP benefits for Claimant. Claimant's AHR confirmed that Claimant received \$735 in SSI and SSP benefits. Therefore, the Department properly calculated Claimant's gross income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (May 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and there was no evidence presented that he had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his one-person group size, the Department properly applied the \$151 standard deduction. RFT 255, p. 1.

In calculating Claimant's excess shelter deduction, the Department considered Claimant's \$200 monthly shelter expenses and \$34 for the telephone standard. Claimant's AHR verified that Claimant's monthly rent was \$200. The Department explained that in July 2014, it determined that Claimant was no longer eligible to the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554 (May 2014), pp. 16-19; RFT 255 (December 2013), p. 1. FAP groups not

eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

In this case, Claimant's AHR confirmed that Claimant is not responsible for heating expenses or other utilities and that Claimant was only responsible for his telephone bill. Therefore, he was eligible for only the telephone standard expense, which is \$34 under Department policy. RFT 255, p.1. A review of the calculation of Claimant's excess shelter deduction shows that he was not eligible for an excess shelter deduction. RFT 556, pp. 4-5. Therefore, the Department properly did not include such a deduction in the budget.

After further review, the Department properly reduced Claimant's gross income of \$735 by the \$151 standard deduction, resulting in monthly net income of \$584. Based on net income of \$584 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$15. BEM 556; RFT 260 (December 2013), p. 8.

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 FAP benefits for August 1, 2014, ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: **10/16/2014**

Date Mailed: **10/16/2014**

ZB / 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]