

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

IN THE MATTER OF:

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Reg. No.: 14-010744
Issue No.: 3008
Case No.: ██████████
Hearing Date: September 25, 2014
County: Wayne (15-Greydale)

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 September 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
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ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for 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. There are two members of Claimant's household: Claimant and her five-year-old child.
3. In May 2014, Claimant began employment.
4. Claimant was receiving Family Independence Program (FIP) benefits but, on May 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that, because of her noncompliance with employment-related activities, her FIP case would close effective July 1, 2014, and she would be sanctioned from reapplying for a minimum of three months, from July 1, 2014, to September 30, 2014.

5. On June 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that FAP benefits had decreased to \$32 effective July 1, 2014.
6. On August 14, 2014, Claimant requested a hearing disputing the Department's calculation of her 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, the Department did not provide a net income budget showing the calculation of Claimant's FAP benefits. Therefore, the budget information on the June 13, 2014, Notice of Case Action was reviewed with Claimant at the hearing. The budget showed earned income of \$1,022 and unearned income of \$403. The Department testified that, at the time it recalculated Claimant's FAP budget, Claimant had started new employment and the pay information available from Claimant's employer through the Work Number, a Department-accessible database where employers voluntarily report client's pay information, was limited to Claimant's pay on May 22, 2014 (\$47.85) and June 6, 2014 (\$475.63). The Department properly disregarded the May 22, 2014, paycheck, which Claimant admitted was her pay during her training period. BEM 505 (July 2014), p. 5. Based on the Claimant's receipt of biweekly pay, the Department properly multiplied the \$475.63 pay Claimant received on June 5, 2014, by 2.15 to arrive at gross monthly income of \$1,022. See BEM 505, pp. 7-8.

With respect to the \$403 in unearned income, the Department testified that this was the monthly FIP allotment Claimant received prior to her FIP case closure on June 30, 2014. Department policy provides that, where a client who receives FAP is subject to a FIP-related noncompliance, a client's last FIP allotment is budgeted into the FAP budget and is removed from FAP budget at the end of the FIP penalty period. BEM 233B (July 2013), p. 3. The Department presented evidence establishing that Claimant's FIP case was closed due to her failure to comply with employment-related activities for a three-month minimum period, from July 1, 2014, to September 30, 2014, the FIP sanction for a first-time occurrence of noncompliance with employment-related activities. See BEM 233A (July 2013), p. 8. Claimant disputed the Department's closure of her FIP case for noncompliance with employment-related activities, pointing out that she was employed

at the time the May 29, 2014, Notice of Case Action closing her FIP case was sent to her. However, Claimant's hearing request resulting in the current hearing was limited to the Department's calculation of her FAP benefits and Claimant acknowledged that she had not requested a hearing concerning the closure of her FIP case and challenging the imposition of the three-month sanction. Therefore, the Department acted in accordance with Department policy when it budgeted the \$403 FIP allotment Claimant received prior to her FIP case closure in her FAP budget. Because Claimant's FIP sanction ends September 30, 2014, Claimant is advised that she may request a hearing if the Department fails to remove the \$403 in unearned income from her October 2014 ongoing FAP budget.

The deductions to income on the budget were also reviewed. Claimant acknowledged that there were two members of her FAP group and that there were no senior/disabled/veteran (SDV) members in the household. Groups with earned income and no SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction up to \$478, which is based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.
- Earned income deduction equal to 20% of the group's earned income.
- Standard deduction based on the FAP group size.

BEM 554 (May 2014), pp. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (December 2013), p. 1.

The budget showed a standard deduction of \$151, the applicable standard deduction based on her two-person group size. RFT 255, p. 1. Claimant's earned income deduction was properly calculated at \$205, or 20% of \$1,022. Claimant confirmed that she had no child support or day care expenses. Her group was not eligible for a medical expense deduction. BEM 554, p. 1.

Claimant also confirmed that, at the time the Department sent her the June 13, 2014, Notice concerning her decreased FAP benefits, she did not have any housing or heating or electric expenses. Although the Department argued that Claimant was eligible for only the telephone standard for utility expenses, the Notice shows that the Department applied the \$553 mandatory heat and utility (h/u) standard. For all FAP groups that received the h/u standard on or before February 7, 2014, the mandatory h/u standard remains in place for a period of five months after the month of their first redetermination on, or first reported case change occurring on or after, May 1, 2014. BEM 554 (May 2014), p. 15. Because there was no evidence that Claimant had not received the h/u standard on or before February 7, 2014, Claimant was eligible for the h/u standard for an additional 5 months following the June 2014 redetermination in this case. Therefore, the Department properly applied the \$553 mandatory h/u standard, the most favorable standard applicable to a client, to Claimant's FAP budget. RFT 255 (December 2013),

p. 1. Based on Claimant's \$0 in shelter expenses and the \$553 h/u standard, Claimant was eligible for an excess shelter deduction of \$19. See BEM 556, pp. 4-5. At the hearing, Claimant testified that, beginning August 1, 2014, she had rent and utility obligations, and she was advised to notify her local office of the changes and to request a hearing if she disputed the Department's calculation of her FAP benefits with respect to such reported changes.

When Claimant's gross income of \$1,425 (the sum of her \$1,022 in gross monthly earned income and the \$403 monthly FIP allotment that continues to be applied to her FAP budget while the FIP sanction applies) is reduced by the \$151 standard deduction, the \$205 earned income deduction, and the \$19 excess shelter deduction, Claimant's net income is \$1,050. Based on net income of \$1,050 and a FAP group size of two, Claimant was eligible for monthly FAP benefits of \$32, consistent with the Department's calculation. RFT 260 (December 2013), p. 14.

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 monthly FAP benefits for July 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/1/2014**

Date Mailed: **10/2/2014**

ACE / pf

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]