

**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.: 14-009928  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: November 12, 2014  
County: Wayne-District 76

**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 November 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for August 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 was an ongoing recipient of FAP benefits receiving \$189 in monthly FAP benefits as a single-member FAP group.
2. Claimant receives the following monthly income: (i) \$541 in Retirement, Survivors and Disability Income (RSDI); (ii) \$200 in Supplemental Security Income (SSI); and (iii) \$14 in State SSI Payments (SSP) (based on quarterly payments of \$42).
3. Claimant became the legal guardian of her two minor grandchildren and reported to the Department that the children were in her household.
4. The children each receive \$610 in monthly RSDI benefits.

5. On July 30, 2014, the Department sent Claimant a Notice of Case Action informing her that, effective August 1, 2014, her monthly FAP benefits would decrease to \$59 based on her three-person group size and the household's \$1975 in gross monthly unearned income.
6. On August 14, 2014, Claimant filed a hearing request disputing the Department's actions concerning 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.

Claimant requested a hearing to dispute the Department's calculation of her FAP benefits. In particular, Claimant was concerned about the Department's inclusion of her grandchildren's income in the calculation of the household's FAP benefits. Claimant contends that the Department should exclude the children's RSDI income from the household's income because she receives that income as the children's representative payee for the children's benefit and she was advised by Children's Protective Services when she took the children into her care that her benefits would not be affected.

Under Department policy, children under 18 and their caretaker who live together are mandatory FAP group members. BEM 212 (July 2014), p. 2. In this case, Claimant testified that she became the legal guardian of her two minor grandchildren and she cared for them in her home. Under these facts, Claimant's grandchildren are mandatory members of Claimant's FAP group and the Department properly increased Claimant's FAP group size from one to three to include the grandchildren.

When it increased Claimant's FAP group size, the Department also included the children's RSDI income in the group's income. Department policy provides that countable income of all group members is included in the calculation of a FAP group's income. BEM 550 (February 2014), pp. 2-3; BEM 556 (July 2013), pp. 2-3. RSDI income is countable unearned income for FAP purposes. BEM 503 (July 2014), p. 28. Therefore, the Department properly included the children's RSDI income in calculating Claimant's household's monthly FAP benefits.

A copy of the net income budget used by the Department in calculating Claimant's FAP benefits was reviewed with Claimant at the hearing. Claimant confirmed the unearned income received by her household, which totals \$1975, consistent with the amount shown on the budget.

Because Claimant receives SSI benefits, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (February 2014), pp 1-2. For groups with one or more SDV members, the following deductions are available from the group's total income:

- Standard deduction.
- 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.

BEM 554 (May 2014), p. 1.

Based on Claimant's three-person FAP group, Claimant was eligible for a \$151 standard deduction at the time the August 2014 budget was calculated. RFT (December 2013), p. 1. Claimant confirmed that she had no day care, child support, or out-of-pocket medical expenses. Claimant also confirmed that, in calculating her excess shelter deduction, the Department properly considered her monthly rent of \$725. Under the circumstances presented, Claimant was eligible for the following deductions from her unearned income: (i) the standard deduction of \$151 and (iii) an excess shelter deduction of \$366, which takes into consideration Claimant's monthly \$725 shelter expenses and the mandatory heat and utility standard of \$553, the most beneficial utility standard applicable in a FAP case. BEM 554, pp. 1, 8-19; RFT 255 (December 2013), p. 1.

When Claimant's FAP group's \$1975 in unearned income is reduced by the \$151 standard deduction and the \$366 excess shelter deduction, the group's net income is \$1458. BEM 556 (July 2013), pp. 1-5). Based on net income of \$1458 and a FAP group size of three, the Department properly concluded that Claimant was eligible for \$59 in monthly FAP benefits. RFT 260 (December 2013), p. 19.

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.



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

Date Signed: **11/13/2014**

Date Mailed: **11/13/2014**

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**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 48909-8139

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