

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013261
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 12, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 Lansing, Michigan. Participants on behalf of Claimant included the Claimant's authorized hearings representative [REDACTED], an adult member of the Claimant's benefit group. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) benefits amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. On August 12, 2014, the Claimant returned her semi-annual contact report in a timely manner.
3. On August 12, 2014, the Claimant reported that [REDACTED] earned self-employment income in August of 2014, in the gross bi-weekly amount of \$ [REDACTED].
4. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].
5. On October 3, 2014, the Department received the Claimant's request for a hearing protesting the amount of her monthly Food Assistance Program (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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

The Claimant was an ongoing Food Assistance Program (FAP) recipient when she provided the Department with information necessary to complete a routine semi-annual review of her eligibility to receive continued benefits. The Claimant reported that [REDACTED], a member of her benefit group, received self-employment income in the gross bi-weekly amount of \$ [REDACTED]. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED]. The Claimant is entitled to have self-employment income reduced by actual expenses incurred. In this case, the Claimant did not provide verification of actual expenses that exceed 25% of the gross monthly self-employment income, and the Department applied a flat 25% expense deduction as directed by BEM 502. The Claimant's total monthly income of [REDACTED] was determined by applying the flat 25% self-employment expenses deduction and the 20% earned income deduction to the Claimant's self-employment income and combining the result with the \$ [REDACTED] of unearned income received by the Claimant. The Claimant's adjusted gross income of \$ [REDACTED] was determined by reducing this amount by the \$151 standard deduction and the Claimant's \$ [REDACTED] monthly child care expenses. The Claimant's excess shelter deduction of \$ [REDACTED] was determined by subtracting 50% of her adjusted gross income from her monthly shelter expenses.

The Claimant's net income of \$ [REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A group of three with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.


The Claimant's representative testified that his income both fluctuates and is declining. The Claimant also testified that the Department failed to recognize all of his operating expenses.

The Department may not apply unverified expenses against his self-employment income. Furthermore, changes to the Claimant's circumstances may affect the Claimant's eligibility for benefits as they occur and are reported by the Claimant.

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 determined the Claimant's monthly Food Assistance Program (FAP) benefits amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

KS/las

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:

