

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014528
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 23, 2014
County: Chippewa

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 25, 2014, from Lansing, Michigan. Participants on behalf of Claimant included claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor, acting as Hearings Facilitator.

ISSUES

Did the Department of Human Services (department) properly determine the amount of the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Agricultural Act of 2014 made changes to the Food Assistance Program benefit program.
2. Claimant and her husband each receive [REDACTED] in gross monthly income from SSI and receive [REDACTED] in SSP payment every three months for a total gross monthly countable income of [REDACTED] ([REDACTED] monthly SSP = [REDACTED]).
3. Claimant's utility costs are included in her rent payment of [REDACTED] per month.

4. The Department caseworker generated a Food Assistance Program budget which determined that claimant should receive [REDACTED] per month in FAP benefits effective November 1, 2014.
5. On October 1, 2014, the Department caseworker notified claimant that FAP benefits would be decreased from [REDACTED] per month to [REDACTED] per month effective at November 1, 2014.
6. On October 8, 2014, claimant filed a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

SSI is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability or blindness.

Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. The amount paid by the state and the payment process varies by living arrangement; see BEM 660, **STATE SSI PAYMENT**.

For SSI recipients in independent living or household of another, refer to Current SSA-Issued SSI, Retroactive SSA-Issued SSI and State SSI Payments below. For SSI recipients in other living arrangements, refer to just Current SSA-Issued SSI and Retroactive SSA-Issued SSI.

Bridges counts the gross amount of current SSA-issued SSI as unearned income. BEM 503.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 255, page 1.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. A standard deduction from income of \$154 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

When processing applications, redeterminations, or when a change is reported clients are **not** automatically allowed the h/u standard. Process these using the policy as written in the MANDATORY HEAT AND UTILITY STANDARD section.

All new FAP applications that were not certified before March 10, 2014, when the Agricultural Act of 2014 went into effect, will be reprocessed to follow the MANDATORY HEAT AND UTILITY STANDARD section and will be required to provide verification once the systems changes are completed on May 1, 2014.

Delayed Implementation of Changes Due to Agricultural Act of 2014 (End of the Dollar LIHEAP Program)

For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section.

Example: Sally's FAP group received the h/u standard on or before February 7, 2014. Her case either has its first redetermination or first reported case change after May 1, 2014 in the month of May, with the benefit period beginning in June. **The delayed implementation change requires her benefit issuance amount starting in November to include only the utilities for which she is responsible to pay.** Therefore, from June through October, she will continue to automatically receive the h/u standard. However, if she does not verify any responsibility for utilities, then starting with her November FAP issuance her budget will no longer contain any heat or utility expenses. BEM 554, page 15.

In the instant case, claimant receives [REDACTED] per month in gross unearned SSI income ([REDACTED] per month in SSI income plus [REDACTED] every three months in SSP income). The budget indicates that claimant was given a [REDACTED] standard deduction which brought her adjusted gross income to [REDACTED] per month. Her housing expense at the time the budget was generated was [REDACTED]. She does not pay heat or electricity. She was given excess shelter deduction of [REDACTED] with a net income of [REDACTED]. 30% of [REDACTED] equals [REDACTED]. The maximum food assistance program benefits for a group size of two people is \$357. Maximum benefit amount of [REDACTED] minus [REDACTED] (30% net income) equals the monthly benefit amount of [REDACTED]. The heat and utilities standard cannot be applied unless the claimant provides proof that they pay heat and utilities. Claimant does not pay heat or electricity, utilities standard cannot be given.

The claimant testified that she can't afford food for the entire month without any assistance.

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Unfortunately, the Administrative Law Judge has no equity powers. The department is required to follow department policy when determining monthly Food Assistance Program benefit allowance. The Department appropriately determined that claimant was entitled to [REDACTED] per month in Food Assistance Program benefits. The Department's decision must be upheld.

Claimant was notified at the hearing that she could turn in medical bills to the department, which may impact her FAP benefit allotment each month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was entitled to receive \$141 per month in Food Assistance Program benefits under the circumstances.

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



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/01/2014

Date Mailed: 12/02/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

LYL/sw

cc:

