

**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.: 14-016531
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 22, 2014
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective October 1, 2014?

Did the Department properly determine Claimant's FAP group composition of two effective October 1, 2014?

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. Claimant and her daughter are members of the FAP group composition (group size of two).
3. Claimant's daughter receives employment earnings (earned income). See Exhibit 1, pp. 8-9 and 11-13.

4. Claimant receives child support income, Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), and State SSI Payments (SSP) (all referred to as “unearned income”). See Exhibit 1, pp. 10 and 14-16.
5. On October 28, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$16 effective October 1, 2014, ongoing. See Exhibit 1, pp. 6-7.
6. On November 17, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 2-3.

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.

In this case, Claimant first argued that her FAP group composition should be one, rather than two. Claimant disputed that her daughter should be included in the FAP group composition. It was not disputed that the daughter lives with the mother (Claimant), she is 18-years-old, and attends high school full-time. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (July 2014), p. 1. Based on this information, the Department properly determined that Claimant’s FAP group composition is two (daughter and Claimant) as the daughter is a mandatory group member. See BEM 212, p. 1 and see also Categorical Eligibility, BEM 213 (July 2014), pp. 1-4.

Additionally, Claimant disputed the amount of her FAP allotment as it decreased from \$151 to \$16. See Exhibit 1, p. 1. Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the October 2014 FAP budget for review from the Notice of Case Action dated October 28, 2014. See Exhibit 1, pp. 6-7. The Department calculated the daughter’s gross earned income to be \$659. See Exhibit 1, p. 7. See BEM 505 (July 2014), pp. 1 and 5-8 and Exhibit 1, pp. 8-9 and 11-13. Claimant did not dispute this calculation.

The Department also calculated Claimant's unearned income to be \$1,075. See Exhibit 1, p. 7. The Department testified this included \$159 in child support income; \$352 in RSDI income; \$334.90 in SSI income; and Claimant also received \$42 in quarterly SSP payment (\$14 per month when averaged). See Exhibit 1, pp. 10 and 14-16. This resulted in an approximate unearned income amount of \$859.90. Claimant's testimony indicated that she received the same amounts as the Department indicated, other than receiving \$340 in RSDI and/or SSI income.

For child support income, the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3. The Department includes the current month if all payments expected for the month have been received. BEM 505, p. 3. The Department does not include amounts that are unusual and not expected to continue. BEM 505, p. 3. If the past three months' child support is not a good indicator of future payments, the Department calculates an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 4 and see also BEM 503 (July 2014), pp. 6-8 (discusses court-ordered direct support and certified support).

Furthermore, the Department counts the gross benefit amount for RSDI amount as unearned income. See BEM 503, p. 28. The Department also counts the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503, p. 32. SSP are issued quarterly. BEM 503, p. 33. Payments are issued in the final month of each quarter. BEM 503, p. 33. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33; and see RFT 248 (January 2014), p. 1.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's unearned income. Claimant and the Department provided testimony that indicated the gross unearned income amount was below \$900; however, the budget indicated a gross unearned income of \$1,075. See Exhibit 1, p. 7. There was a clear discrepancy in the calculation of the unearned income. It should also be noted that the Department failed to provide Claimant's last three months of child support payments received (budget month in dispute is October 2014 and the Department only provided Claimant's child support for September to December of 2014 for review). See Exhibit 1, p. 10 and BEM 503, p. 8. Also, Claimant and the Department's testimony indicated the present amount of SSA income she received. However, the evidence indicated Claimant received a different amount of SSA income for the benefit month of October 2014. For example, Claimant received \$407 in SSI income for the benefit month of October 2014, whereas, it decreased to \$334.90 effective November 1, 2014. See Exhibit 1, p. 16. This would have resulted in a different unearned income amount for the FAP budget. As such, the Department will recalculate Claimant's unearned income amount effective October 1, 2014.

The Department then properly applied the \$154 standard deduction applicable to Claimant's group size of two. See Exhibit 1, p. 7 and RFT 255 (October 2014), p. 1.

Also, the Department indicated that Claimant's monthly housing expense is \$195 for October 2014, which Claimant did not dispute for October 2014. See Exhibit 1, p. 7. The Department also gave Claimant a flat utility standard of \$553 (see RFT 255, p. 1.), which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. See BEM 554 (October 2014), pp. 14-15 and Exhibit 1, p. 7.

It should be noted that Claimant testified her rent increased to \$198 effective November 1, 2014. Claimant testified she provided proof of her lease agreement to the Department before October 2014. Claimant testified she brought the lease agreement to the local DHS office and she signed the logbook. Claimant testified, though, she could not recall the specific date she submitted the documentation and did not indicate she had a copy of the rent increase at the time of hearing. The Department testified that it did not have a copy of the lease agreement and/or proof of rent increase.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, pp. 12-13. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department removes the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information, the Department properly calculated Claimant's shelter expenses effective October 1, 2014. BEM 554, pp. 12-14. Claimant failed to provide a specific time frame in which she submitted the verification of shelter expenses (in order to check the logbook) and she did not have any proof at the time of hearing. Moreover, the Department indicated during the hearing that it did not have any copy of her rent increase. Nevertheless, the Department did not properly calculate Claimant's unearned income; therefore, the Department will recalculate Claimant's FAP benefits effective October 1, 2014.


DECISION AND ORDER

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 (i) acted in accordance with Department policy when it properly determined Claimant's FAP group composition is two; and (ii) did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective October 1, 2014.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to FAP group composition effective October 1, 2014 and REVERSED IN PART with respect to FAP allotment effective October 1, 2014.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating the FAP budget effective October 1, 2014;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2014, ongoing; and
3. Notify Claimant of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/23/2014**

Date Mailed: **12/23/2014**

EJF / 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 48909-8139

CC:

[REDACTED]
[REDACTED]
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