

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-002313
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 11, 2014
County: Allegan

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 11, 2014 from Lansing, Michigan. Participants on behalf of Claimant included Lori Olivarez (Claimant's Authorized Hearing Representative (AHR)/Spouse) and ██████████ (Claimant). Participants on behalf of the Department of Human Services (Department) included ██████████ (Family Independence Manager) and ██████████ (Family Independence Specialist).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment 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. Claimant was actively receiving FAP benefits.
2. Claimant had a group size of 2 at all times.
3. Claimant's total countable monthly gross income was ██████████ at all times.
4. In April, 2014, Claimant's case was scheduled for redetermination.
5. During redetermination, Claimant reported a change in her monthly mortgage expense, which increased from ██████████ to ██████████ effective March, 2014.

6. On April 30, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's monthly FAP allotment at [REDACTED] for the period of May 1, 2014 through April 30, 2015.
7. Claimant requested a hearing to dispute the monthly FAP allotment amount on May 8, 2014.

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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500 (1-1-2014), pp 1-3. Earned income means income received from another person or organization or from self-employment 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 (AMP), alimony, and child support payments. BEM 500, pp 1-3.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505 (7-1-2013), p 1.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (5-1-2014), p 1. For groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554, p 1.

Here, Claimant requested a hearing because he disputes the Department's determination that his monthly FAP allotment should be [REDACTED]. Specifically, Claimant's AHR disputed the calculations indicated on the notice of case action. The Department, on the other hand, takes the position that Claimant's [REDACTED] monthly allotment was correct and it was properly calculated based on the countable income and allowable expenses. The Department relied upon the Bridges budget, which was contained in the record. The parties did not dispute the amount of Claimant's monthly income and expenses.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The record reveals that Claimant was receiving monthly unearned income from RSDI and a monthly pension in the amount of [REDACTED] at the time relevant to this matter. Therefore, Claimant's total household monthly income which is reduced by a standard deduction of [REDACTED] and a monthly medical deduction of [REDACTED] leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

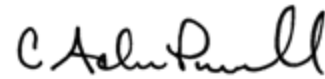
A claimant with a group size of 2 has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant had a certified group size of 2 and a total countable monthly net income of [REDACTED], the food issuance tables indicate that the proper monthly FAP allotment is [REDACTED]. See RFT 260.

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 Claimant's [REDACTED] monthly FAP allotment amount.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/13/2014**

Date Mailed: **6/16/2014**

CAP/sw

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.

