

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006467
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 4, 2014
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 August 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], Assistance Payment Supervisor.

ISSUE

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

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.
2. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.
3. Claimant was approved for FAP benefits in the amount of \$15 monthly beginning July 1, 2014.
4. Claimant was not in agreement with the Department's calculation of her FAP benefits.
5. On July 3, 2014, Claimant submitted a hearing request disputing the Department's actions.

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.

Additionally, all countable gross earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. The Department will use income from the past 60 or 90 days for fluctuating or irregular income if: the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6.

A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received bi-weekly is converted to a standard amount by multiplying the average of the bi-weekly paychecks by the 2.15 multiplier. BEM 505, pp. 7-8. The Department is to apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 2). The Department concluded after prospectively budgeting, that Claimant had earned income of \$1585 which it testified came from Claimant's employment. Specifically, the Department stated that because Claimant indicated her income often changed, it asked her to submit additional paystubs for the past 60 to 90 days. The Department testified that Claimant's FAP budget was recalculated and that it specifically relied on the 60 to 90 days of paystubs provided by Claimant and considered Claimant's confirmed bi-weekly pay of (i) \$745 paid on April 2, 2014; (ii) \$834.96 paid on April 16, 2014; (iii) \$632.50 paid on April 30, 2014; (iv) \$225 paid on May 7, 2014; (v) \$441.72 paid on May 14, 2014; (vi) \$680 paid on May 28, 2014; (vii) \$722 paid on June 11, 2014; (viii) \$767.41 paid on June 25, 2014; and (ix) \$438.50 paid on July 19, 2014. After further review, the Department did not properly calculate Claimant's earned income, as the

income amounts relied on by the Department do not result in total monthly earned income of \$1585 after prospectively budgeting.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's confirmed group size of one and the Department testified that \$553.00 standard heat and utility deduction available to all FAP recipients was also properly applied. RFT 255 (December 2013), p 1; BEM 554 (May 2014), pp. 12-15. The Department considered Claimant's housing costs of \$200, which Claimant confirmed were correct. (Exhibit 1).

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 because of the errors in the calculation of Claimant's earned income the Department did not act in accordance with Department policy when it determined that Claimant was eligible to receive FAP benefits in the amount of \$15 monthly, effective July 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

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. Recalculate Claimant's FAP budget for July 1, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive from July 1, 2014, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun

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

Date Signed: **8/8/2014**

Date Mailed: **8/11/2014**

ZB / tlf

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:

