

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006972
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: September 3, 2014
County: Washtenaw

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, an in-person hearing was held on September 3, 2014, from Ypsilanti, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist and [REDACTED], 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 Claimant was a FAP benefit recipient for himself.
2. On December 10, 2013 a case change was completed. Claimant's FAP benefits were increased \$ [REDACTED] 8, Exhibit 2 pages 10 – 11, Exhibit 3 page 12, Exhibit 4 pages 13 – 1405 page 15.
3. Claimant's gross annual income from RSDI is \$804 monthly.
4. In December 2013, Claimant's RSDI income increased from \$804-\$816 per month, Exhibit 1, pages 7 – 9.

5. Because of the increase in income, Claimant's FAP benefits were decreased \$83 per month, Exhibit 6, pages 16 – 17 Exhibit 7, page 18.
6. On December 10, 2013, the Department caseworker sent Claimant notice that her food assistance program benefits will be decreased effective September 1, 2014 to \$ [REDACTED] per month
7. On July 11, 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). Claimants 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:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

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 \$█ is allowed for each household. Certain non-reimbursable medical expenses above \$█ 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.

In the instant case, Claimant receives \$█ per month in net unearned RSDI income. The budget indicates that Claimant was given a \$█ standard deduction which brought her adjusted gross income to \$█ per month. Her housing expense at the time the budget was generated was \$█. She was given a \$█ heating utility standard for a total shelter amount of \$█. 50% of the adjusted gross income was \$█. \$█ in total shelter amount minus -50% of the adjusted gross income of \$█ equals an adjusted excess shelter allowance of \$█ pages 16 – 18. \$█ per month in adjusted gross income minus \$█ in excess shelter costs equals \$█ per month in net income. The food assistance issuance table at RFT 260 determines that a person who receives \$█ per month in net income is entitled to \$█ per month in food assistance program benefits for a benefit group of one person.

The Claimant testified that she can't afford food for the entire month on \$█ per month in assistance and that she had to return two pairs of shoes to the store in order to eat last month.

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.

At the hearing, Claimant was notified by the Administrative Law Judge and the caseworker that she is able to turn in any access medical expenses which are not covered by her Medical Assistance benefits and they will in turn be considered when determining Claimant's monthly Food Assistance benefit amount.

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 \$83 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: 9/11/14

Date Mailed: 9/12/14

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 Claimant;
- 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 48909-07322

LYL/tb

cc:

