

**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.: 14-009347
Issue No.: 1001;3001;4001
Case No.: ██████████
Hearing Date: September 11, 2014
County: WAYNE-DISTRICT 15

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 September 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP) and cash assistance 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. On July 31, 2014, Claimant submitted an application for FAP benefits and cash assistance.
2. On August 6, 2014, the Department sent Claimant a Notice of Case Action informing her that her application for FAP benefits and cash assistance was denied. (Exhibit 1)
3. On August 12, 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).

FAP

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.

Claimant submitted a hearing request disputing the Department's denial of her FAP application. At the hearing, the Department testified that Claimant was ineligible for FAP benefits on the basis that her income exceeded the limit. Although a Notice of Case Action was presented at the hearing, the Department only provided two pages; therefore, the exact reason for the denial could not be verified. (Exhibit 1). Based on the Department's testimony, the FAP EDG Net Income Results budget was reviewed to determine if the Department properly denied the application based on excess income. (Exhibit 2).

All countable 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 considers the gross amount of money earned from annuity payments, Retirement, Survivors and Disability Insurance (RSDI), and Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 4, 28, 31-32.

A review of the FAP budget shows that the Department concluded that Claimant had unearned income of \$2585 which it testified came from \$615 in a monthly annuity payment, \$1320.90 in RSDI for Claimant, and \$325 in social security benefits for each of Claimant's two disabled adult children, of whom she is the legal guardian. Claimant confirmed that the amounts received by the Department were correct and the Department presented SOLQs for each person as well as proof of the annuity payment in support of its calculation of the unearned income. (Exhibits 3 and 4).

The budget shows that the Department applied a \$151 standard deduction applicable to a group size of three which Claimant argued was incorrect. Claimant testified that she has a daughter living in the home as well, and that the group size should be four. Initially, the Department testified that the group size should be four; however, the Department later stated that Claimant's daughter was an ineligible student and removed as a group member. Although page two of the Notice of Case Action indicates that

Claimant's daughter was an ineligible student, the Department failed to present any supporting evidence to establish that Claimant's daughter was not eligible for FAP based on her status as a student. Therefore, the Department failed to establish that Claimant's daughter was properly removed as a group member and that the correct standard deduction based on Claimant's group size was used.

The Department testified that the \$553.00 standard heat and utility deduction available to FAP recipients was also applied and that housing costs including home insurance and property taxes were considered. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 12-15.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. The Department testified that it took into consideration a medical expense for Claimant only, as per the SOLQs provided, \$104.90 is deducted from Claimant's monthly social security benefits for a Part B premium. Claimant argued that the same is being deducted for her two children; however, the documents provided by Claimant in support of her testimony establish that this deduction was not set to begin until September 1, 2014, and was not available as a deduction at the time of application. (Exhibit A).

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 the Department failed to establish that Claimant's daughter was an ineligible student and that the correct group size and standard deduction were applied to the budget, the Department failed to satisfy its burden in establishing that it acted in accordance with Department policy when it denied Claimant's FAP application based on excess income.

Cash Assistance

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Claimant submitted a hearing request disputing the Department's action with respect to her application for cash assistance. The Department presented a Notice of Case Action dated August 6, 2014, which informs Claimant that her application for cash assistance was denied on the basis that the individuals (Claimant's children) were not dependent children, caretaker/relatives of a child, not pregnant, not aged or disabled. (Exhibit 1).

Claimant stated that she was applying for cash assistance for her two disabled adult children, as they were dependents, and that she was not seeking assistance for herself.

In order to be eligible for cash assistance under the FIP, the group must include a dependent child who lives with a legal parent, stepparent or qualified caretaker. BEM 210 (July 2013), p.1. A dependent child is defined as an unemancipated child who lives with a caretaker and is one of the following: under age 18 or age 18 and a full time high school student. BEM 210, p. 2. At the hearing, Claimant confirmed that her two adopted sons for whom she was applying for cash assistance are 20 years old. Therefore, the Department properly determined that they were ineligible for cash assistance under the FIP.

With respect to cash assistance under the SDA program, the Department testified Claimant's children were not eligible on the basis that their income exceeded the limit for the program.

In order to be eligible for SDA benefits, an individual must be in financial need. BEM 515 (July 2013), p 1; BEM 518 (July 2013), p 1. At application, financial need exists when the individual's budgetable income is less than the applicable payment standard. BEM 515, p 1; BEM 518, p 1. The Department subtracts budgetable income from the applicable payment standard for the benefit month. BEM 518, p 1. The SDA payment standard is \$200 for an individual living in an independent living arrangement, such as Claimant's children. RFT 225 (December 2013), p 1.

Although a budget was not provided for review at the hearing, as discussed above, because Claimant's sons each received monthly unearned income from social security benefits of \$325, in excess of the \$200 standard, the Department properly determined that they were both ineligible for cash assistance under the SDA program.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to cash assistance (FIP/SDA) and REVERSED IN PART with respect to FAP.

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. Register and process Claimant's application for FAP benefits;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from the application date, 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: **9/19/2014**

Date Mailed: **9/19/2014**

ZB / 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:

