

**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.: 14-011939
Issue No.: 3008
Case No.: ██████████
Hearing Date: November 03, 2014
County: Wayne-District 19

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 November 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager.

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. Effective September 1, 2014, Claimant's FAP group size was reduced to two and her FAP benefits decreased to \$15 monthly. (Exhibit 1)
3. On September 16, 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.

In this case, Claimant submitted a hearing request disputing the Department's calculation of her FAP benefits for the month of September 2014. At the hearing, the Department stated that Claimant's FAP benefits were decreased because one of her children was removed from the FAP group on the basis that the Department did not have a social security number on file for the child. (Exhibit 4). The Department testified that on August 30, 2014, it sent Claimant a verification checklist requesting that she submit proof of her child's social security number by September 9, 2014. The Department further testified that Claimant submitted the requested verification by the due date, on September 9, 2014. Therefore, because Claimant complied with the Department's request and submitted proof of the social security number on time, the Department should not have disqualified Claimant's child from the FAP group, as Claimant did not refuse to supply the information requested. BEM 223 (July 2014), p. 2.

At the hearing, the FAP EDG Net Income Results Budget for September 1, 2014, was reviewed to determine if the Department relied on the correct figures in calculating Claimant's FAP benefits. (Exhibit 2).

In calculating a client's FAP benefits, 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 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 weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 7-8. The Department is to also apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

The Department concluded that Claimant's group had earned income of \$2236 which it testified came from Claimant's weekly pay of \$520. Claimant confirmed the amounts relied on by the Department and pay stubs were presented in support of the Department's testimony. (Exhibit 3). After further review, the Department properly determined Claimant's earned income.

Although the budget shows that the Department properly applied the \$151 standard deduction applicable, as discussed above, the certified group size should be three, rather than two. RFT 255 (December 2013), p.1.

The FAP budget shows that the Department determined Claimant's excess shelter deduction was \$0. A review of the Excess Shelter Deduction (ESD) budget provided shows that the Department considered housing costs in the amount of \$600; however, Claimant disputed this amount and stated that her monthly rental expense is \$825. BEM 554 (May 2014), pp. 1, 14-15. The Department and Claimant provided a copy of her lease agreement confirming the \$825 rental payment. (Exhibit 5). Therefore, the Department included incorrect housing expenses.

The ESD budget also shows that the Department considered \$34 for the telephone standard, however, the heat and utility standard was not applied. (Exhibit 2, p.3).

Under the revised policy, the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554, pp. 16-19; RFT 255, p. 1. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

In this case, Claimant testified that she has heating expenses and that she provided the Department with a copy of her DTE bill. The Department confirmed that Claimant provided a copy of her DTE bill indicating that she has gas (heating) and electric expenses. Therefore, because the Department did not consider Claimant's heating

expenses, she was not given the benefit of the \$553 h/u standard available to her. As such, the Department did not properly calculate Claimant's ESD, which is used to determine Claimant's eligibility for FAP benefits

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 group size, housing expenses and the h/u standard, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for September 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 September 1, 2014, ongoing; and
2. Issue FAP supplements to Claimant from September 1, 2014, ongoing, in accordance with Department policy.



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

Date Signed: **11/7/2014**

Date Mailed: **11/7/2014**

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]