

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 14-013128  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: November 03, 2014  
County: Wayne-District 19

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 ██████████, Assistance Payment Worker.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for November 1, 2014 ongoing?

**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 is an ongoing recipient of FAP benefits.
2. On July 24, 2014, Claimant notified the Department that her husband was beginning employment at a temporary agency and that she was "going contingent at [her] job within the next 30 days."
3. On September 27, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreasing to \$77 monthly effective November 1, 2014.
4. On October 1, 2014, Claimant filed a request for hearing disputing the Department's calculation of her FAP benefits.

### **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 response to Claimant's request for hearing concerning the calculation of her FAP benefits, the Department presented a FAP net income budget showing the calculation of Claimant's FAP benefits for November 1, 2014 ongoing that was reviewed with Claimant at the hearing. The budget showed gross monthly earned income totaling \$2722 that the Department testified was based on Claimant's gross monthly earned income of \$328 and her husband's gross monthly earned income of \$2394. In calculating Claimant's husband's income, the Department testified that it relied on his weekly gross pay for the month of September 2014, as shown on the Work Number, the Department-accessible database where employers report employee data. Claimant's husband's average weekly pay in September 2014, multiplied by 4.3 in accordance with Department policy, results in gross monthly income of \$2394, consistent with the Department's testimony. See BEM 5050 (July 2014), pp. 7-8.

Claimant's primary concern with respect to the income figures used by the Department related to the Department's calculation of *her* employment income. Claimant testified that she had advised the Department in July 2014 that, in connection with her husband's new employment, her work hours were also changing. In an online change report filed on July 24, 2014, Claimant notified the Department that her husband had started employment with a temporary staffing agency and that she would be "going contingent at [her] job within the next 30 days but it wouldn't allow [her] to change it on the system." Despite being notified of Claimant's employment changes, the Department acknowledged that, in updating Claimant's FAP budget, it only considered changes in her husband's income. Claimant's employment income continued to be based on the June 2014 paystubs Claimant had previously provided to the Department. Because Claimant notified the Department of a change in her work hours, the Department was required to process the change, provided necessary verifications it requested were timely returned. BEM 505, pp. 9-10; see also BAM 105 (October 2014), p. 10. Because the Department did not process Claimant's income change, the Department did not act in accordance with Department policy when it recalculated Claimant's FAP budget for November 1, 2014 ongoing.

It is noted that the deductions to income on the budget were also reviewed with Claimant. Claimant acknowledged that there were four members of her FAP group and none were senior/disabled/veteran (SDV) members. Groups with earned income and no SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction up to \$478, which is based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.
- Earned income deduction equal to 20% of the group's earned income.
- A standard deduction based on the FAP group size.

BEM 554 (October 2014), p. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (October 2014), p. 1.

The budget showed a standard deduction of \$164, the applicable standard deduction based on Claimant's four-person group size. RFT 255, p. 1. Claimant did not dispute the Department's finding that she had not verified child support or day care expenses. The September 27, 2014 Notice of Case Action showed that the Department considered monthly shelter expenses of \$560.49 and utility expenses of \$553 in calculating Claimant's FAP budget. Claimant confirmed that she paid monthly mortgage premiums (inclusive of property taxes and homeowner's insurance premiums) of \$560.49, and the \$553 heat and utility standard applied in Claimant's case is the most favorable utility standard applicable to a client. BEM 554, pp. 14-22; RFT 255, p. 1. The earned income deduction, which was based, in part, on Claimant's previous earned income, may change once Claimant's income is updated.

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 did not act in accordance with Department policy when it calculated Claimant's FAP budget for November 1, 2014 ongoing.

### **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 November 1, 2014 ongoing;

2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

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

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

ACE / 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]