

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013854
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 18, 2014
County: Macomb (36)

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, a telephone hearing was held on November 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included claimant and her Bosnian language interpreter [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [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:

2. On July 28, 2014 claimant returned proof of utility payment, (DTE energy bill), Exhibit 2.
3. Claimant's gross monthly income from SSI is [REDACTED] plus the [REDACTED] SSP payment for a total gross monthly countable income of [REDACTED].
4. Because claimant does not pay for heat and she provided proof of her electrical payment, it was determined that she would not receive the heat and utilities standard deduction.

5. The Department caseworker generated a food assistance program budget which determined that claimant should receive [REDACTED] per month in food assistance benefits for the certification period of July 1, 2013 to June 30, 2015.
6. On September 17, 2014, the Department caseworker notified claimant that food assistance program benefits would be decreased from [REDACTED] per month to [REDACTED] per month effective at October 1, 2014.
7. On October 9, 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). Clients 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:

SSI is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability or blindness.

Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds. The amount paid by the state and the payment process varies by living arrangement; see BEM 660, **STATE SSI PAYMENT**.

For SSI recipients in independent living or household of another, refer to Current SSA-Issued SSI, Retroactive SSA-Issued SSI and State SSI Payments below. For SSI recipients in other living arrangements, refer to just Current SSA-Issued SSI and Retroactive SSA-Issued SSI.

Bridges counts the gross amount of current SSA-issued SSI as unearned income. BEM 503.

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 [REDACTED] is allowed for each household. Certain non-reimbursable medical expenses above [REDACTED] 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 [REDACTED] per month in gross unearned SSI income (\$721 per month and SSI income plus [REDACTED] every three months in SSP income). The budget indicates that claimant was given a [REDACTED] standard deduction which brought her adjusted gross income to \$581 per month. Her housing expense at the time the budget was generated was \$174. She does not pay heat but paid electricity in the amount of \$37.34. She was given access shelter deduction of [REDACTED] which resulted in a monthly net income of \$539. 30% of [REDACTED] equals [REDACTED]. The maximum food assistance program benefits for a group size of one person is [REDACTED]. Maximum benefit amount of [REDACTED] minus [REDACTED] (30% net income) equals the monthly benefit amount of [REDACTED]. The food assistance issuance table at RFT 255 determines that a person who receives [REDACTED] per month in net income is entitled to [REDACTED] per month in food assistance program benefits for a benefit group of one person. The heat and utilities standard cannot be applied unless the claimant provides proof that they pay heat and utilities. Claimant does not pay heat, thus, the heat and utilities standard cannot be given.

The claimant testified that she can't afford food for the entire month without any assistance.

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.

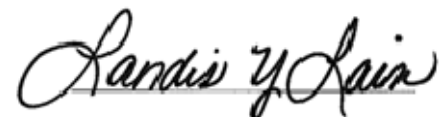
Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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. The Department's decision must be upheld.

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 [REDACTED] 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: 11/20/2014

Date Mailed: 11/21/2014

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 client;
- 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 48909-8139

LYL/sw

cc:

