

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 14-016135  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: December 15, 2014  
County: Wayne-District 35

**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 December 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her daughter, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

**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. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed.
3. On November 3, 2014, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2014, she was approved for FAP benefits in the amount of \$16 monthly, based on a group size of two, as she was removed from the FAP group due to her status as an ineligible student. (Exhibit 1, pp. 30-34)

4. On November 11, 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.

Additionally, Claimant requested a hearing disputing the Department's calculation of her FAP benefits. At the hearing, the Department testified that in relying on the information submitted by Claimant with her FAP redetermination, Claimant's FAP benefits were calculated based on a group size of two (Claimant's two children), as the Department determined that Claimant was ineligible for FAP benefits based on her status as a student.

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (July 2014), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. BEM 245 (July 2014), pp.3-5.

At the hearing, Claimant confirmed that she was enrolled half time or more as a university student. Claimant stated that she is not physically or mentally unfit for employment and that she does not participate in an on the job training program or in a work study program. Claimant verified that she does provide more than half of the physical care of a group member under the age of six. BEM 245, pp.2-5.

Based on the above information and additional testimony provided at the hearing by both Claimant and the Department, Claimant does not meet any of the criteria found in BEM 245 and is therefore not eligible to receive FAP benefits. BEM 245, pp.2-4. Therefore, the Department properly removed Claimant from the FAP group and determined that Claimant's FAP group size was two.

At the hearing, the FAP EDG Net Income Results Budget for December 1, 2014, was reviewed to determine if the Department properly concluded that Claimant's group was eligible to receive \$16 in monthly FAP benefits. (Exhibit 1, pp. 27-29).

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. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 7-8.

The Department concluded that Claimant's group had earned income of \$1823, which it testified came from Claimant's daughter's employment at [REDACTED]. In calculating Claimant's group's earned income, the Department considered Claimant's daughter's biweekly pay, specifically (i) \$668.43 paid on September 29, 2014, from [REDACTED]; (ii) \$656.55 paid on October 10, 2014, from [REDACTED]; (iii) \$230.39 paid on October 2, 2014, from [REDACTED]; (iv) \$185.91 paid on October 16, 2014, from [REDACTED]; and (v) \$140.59 paid on October 30, 2014, from [REDACTED]. (Exhibit 1, pp.17-22).

At the hearing, Claimant's daughter confirmed that she was employed at [REDACTED] and [REDACTED] at the time of the Redetermination, however, Claimant's daughter stated that she is no longer employed at [REDACTED]s and that the check received on October 30, 2014, was her final paycheck. Claimant's daughter confirmed that she did not inform the Department of her loss of employment prior to the hearing date, however. Thus, the Department properly included the income from [REDACTED] in the calculation of Claimant's FAP benefits for December 1, 2014, and relied on the correct figures to calculate Claimant's earned income. Claimant was informed that the Department would consider the loss of employment in the determination of future FAP budgets.

The deductions to income on the net income budget were also reviewed. Claimant's group does not include a senior/disabled/veteran (SDV) member, thus the group is entitled to the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 550 (February 2014), pp. 1-2; BEM 554 (May 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant's group was eligible for an earned income deduction equal to 20% of any earned income, which the Department properly determined was \$365. There was no evidence presented that Claimant had any dependent care or child support expenses, therefore, the budget properly did not include any deduction for dependent care expenses or child support. Based on the two-person group size, the Department properly applied the \$154 standard deduction. RFT 255, p. 1. The Department determined that Claimant was not entitled to an excess shelter deduction, as Claimant did not have any verified housing expenses and was not responsible for heat and utility costs, which Claimant confirmed. Thus, the Department properly determined that the excess shelter deduction was \$0. RFT 255 (October 2014), p 1; BEM 554 (May 2014), pp. 12-15. RFT 255 (October 2014), p.1;(Exhibit 3).

After further review, the Department properly reduced Claimant's gross income of \$1823 by the \$154 standard deduction, resulting in monthly net income of \$1304. Based on net income of \$1304 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 17.

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 acted in accordance with Department policy when it calculated Claimant's FAP benefits for December 1, 2014, ongoing.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **12/17/2014**

Date Mailed: **12/17/2014**

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 48909-8139

cc:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

