

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.

Claimant requested a hearing disputing the decrease in her FAP benefits for the period of November 1, 2014, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$16 in monthly FAP benefits. (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 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. 28, 31-32.

According to the budget, the Department concluded that Claimant had unearned income in the amount of \$767, which it testified came from \$231 in monthly RSDI benefits and \$448.70 in monthly SSI benefits. Claimant's AHR confirmed that Claimant receives RSDI and SSI in the amounts relied on by the Department and the Department presented a SOLQ in support of those figures. (Exhibit 3). After further review, however, the total amount of Claimant's confirmed RSDI and SSI benefits does not equal \$767 as determined by the Department. Thus, the Department has failed to establish that it properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of her FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.

- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and there was no evidence presented that she had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on the confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction, the Department testified that it considered \$202 in housing expenses, which is the amount that the Department had on file from a previously submitted shelter verification form, as well as the \$34 telephone standard. (Exhibit 4). Although Claimant's AHR confirmed that Claimant was responsible for telephone costs, Claimant's AHR disputed the amount relied on by the Department for Claimant's housing costs and stated that Claimant paid \$217 per month in rent for the year of 2014 and that in 2015, it will increase. The Department testified that in October 2014, Claimant completed a redetermination for her FAP case on which she reported that there were no changes in her housing expenses, which is why the previous \$202 amount was used. The Department was instructed to provide a copy of the redetermination in support of its testimony, however, after the hearing, the Department failed to present it for review. The Department explained that because Claimant was not responsible for heat or utilities, she was no longer eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Department policy provides that 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.

The shelter verification relied on by the Department was presented for review at the hearing. (Exhibit 4). After reviewing the shelter verification, the Department confirmed that Claimant is responsible for \$75 in air conditioning fees. (Exhibit 4). Claimant's AHR also confirmed that Claimant is responsible for cooling costs. A review of the excess

shelter deduction budget and Department policy shows that the Department failed to properly calculate Claimant's excess shelter deduction, as she is entitled to the \$553 mandatory heat and utility (h/u) standard based on her payment of cooling costs, which the Department failed to consider. BEM 556, pp. 4-5.

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 calculation of Claimant's unearned income and housing expenses and excess shelter deduction, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$16 effective November 1, 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 November 1, 2014, ongoing, and
2. Issue FAP supplements to Claimant from November 1, 2014, ongoing, in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/19/2015**

Date Mailed: **2/19/2015**

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]
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