

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

IN THE MATTER OF:

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

Reg. No.: 14-019027
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 04, 2015
County: Wayne-District 15

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 February 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

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 mass update, Claimant's eligibility to receive FAP benefits was reviewed.
3. On October 21, 2014, the Department sent Claimant a Notice of Case Action informing him that effective December 1, 2014, his FAP benefits would be decreased to \$16 monthly. (Exhibit 1)
4. On December 11, 2014, Claimant requested a hearing disputing the amount of his 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.

Claimant requested a hearing disputing the decrease in his FAP benefits for the period of December 1, 2014, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for December 2014 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.

The budget shows that the Department determined that Claimant had unearned income in the amount of \$752. Initially, the Department testified that the unearned income amount consisted of \$752 in monthly RSDI benefits. Claimant disputed this amount and asserted that he does not receive \$752 in RSDI benefits. Claimant provided testimony concerning his unearned income and stated that he receives SSI benefits of around \$535 and an additional \$196 from retirement benefits. It remained unclear at the conclusion of the hearing however, the type of unearned income received by Claimant and the amounts. The Department failed to present a SOLQ in support of its testimony and thus remained unable to explain exactly how the unearned income amount was calculated.

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 he 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 his 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 considered Claimant's \$272 monthly rental/housing expenses and \$34 for the telephone standard. (Exhibit 2, p. 3). Claimant verified that his portion of his monthly rental obligation was \$272 and that he was responsible for telephone costs. The Department explained that Claimant was no longer eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction, as all utilities are included in the costs of his monthly rent.

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.

While Claimant confirmed that his rent includes the costs of utilities, Claimant testified that he received a home heating credit on his income tax return, however, such credit is not the equivalent of one required by Department policy in order to qualify for the h/u standard. Thus, based on the \$272 housing expenses and the \$34 telephone standard expense (which is the maximum amount under Department policy RFT 255, p. 1); the Department properly determined that Claimant had a total shelter amount of \$306. (Exhibit 2, p. 3).

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, 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 December 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 December 1, 2014, ongoing; and
2. Issue FAP supplements to Claimant from December 1, 2014, ongoing in accordance with Department policy.



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

Date Signed: **2/11/2015**

Date Mailed: **2/11/2015**

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]
[REDACTED]