

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-12245
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 11, 2013
County: Wayne (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 December 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his wife, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Specialist.

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 October 30, 2013, the Department sent Claimant a Notice of Case Action informing him that effective November 1, 2013, he was approved for FAP benefits in the amount of \$252. (Exhibit 2)
4. On November 10, 2013, Claimant submitted a hearing request 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, the gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI), Supplemental Security Income (SSI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp.28, 32. State SSI Payments (SSP) are issued quarterly and the monthly SSP benefit amount is counted as unearned income. BEM 503, p.33.

At the hearing, the FAP EDG Net Income Results budget for the benefit period November 1, 2013, was reviewed. (Exhibit 1). The Department concluded that Claimant's group had unearned income of [REDACTED] which came from [REDACTED] in RSDI benefits, [REDACTED] in SSI benefits and [REDACTED] in SSP benefits. Claimant confirmed that the amounts relied on by the Department were correct.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of two and that the \$553.00 standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15.

At issue was the Department's calculation of Claimant's housing costs. The Department determined that Claimant had housing costs of [REDACTED] based on the redetermination interview with Claimant and a collateral contact made with Claimant's landlord who confirmed the [REDACTED] amount and stated that the remainder of the rent is paid through Section 8. Claimant confirmed this was what he believed his rental obligation would be and that he informed the Department that his rental obligation was [REDACTED]. Claimant testified however, that on [REDACTED] he reported to the Department that his Claimant his rental obligation was actually [REDACTED]. The Department confirmed Claimant's testimony and stated that the increased shelter expense had been applied to Claimant's December 2013 FAP budget. Claimant disputed, stating that the expense should be applied to his November 2013, FAP budget.

For FAP cases, the Department is to act on a change reported within 10 days of becoming aware of the change. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date

the change was reported, provided any necessary verification was returned by the due date. BAM 220 (July 2013), pp.6-7. Therefore, the Department properly determined that Claimant's increased rental expense would impact his December 2013, FAP budget.

After further review of the evidence presented, the Department properly calculated Claimant's net income for FAP purposes and determined that he was eligible to receive ██████ in FAP benefits monthly for a group size of two for the benefit period of November 2013. RFT 260 (October 2013), p. 18.

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 November 2013. Claimant was informed that if he disputed the calculation of his December 2013 FAP benefits, he was entitled to request a hearing on that issue.

DECISION AND ORDER

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: December 13, 2013

Date Mailed: December 16, 2013

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 48909-07322

ZB/tm

cc:

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