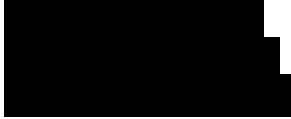


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-30623
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: March 31, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 March 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective March 1, 2014, ongoing?

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 is an ongoing recipient of FAP benefits.
2. On February 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$15 effective March 1, 2014, ongoing. See Exhibit 1.
3. On March 3, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1.

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.

As a preliminary matter, Claimant also requested a hearing in which she disputed the Department's failure to process two previous Decision and Orders (D&O), Registration numbers 2014-21866 and 2014-10579. See Exhibits 1 and 2. Subsequent to this hearing, the Michigan Administrative Hearing System (MAHS) was notified from the Claimant's local DHS office that it processed the D&O. Moreover, the MAHS was notified that the Department discussed the results with the Claimant subsequent to this hearing. As such, this hearing decision will not address the previous administrative hearings held (see Registration numbers 2014-21866 and 2014-10579). See Exhibit 2 and BAM 600 (March 2014), pp. 42-43.

In this case, Claimant is an ongoing recipient of FAP benefits. On February 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$15 effective March 1, 2014, ongoing. See Exhibit 1.

It was not disputed that the certified group size is two and that the FAP group does not contain a senior/disabled/disabled veteran (SDV) member. The Department presented the March 2014 FAP budget from the Notice of Case Action (dated February 25, 2014). See Exhibit 1. The Department calculated Claimant's gross earned income to be \$2,512. See Exhibit 1. It appears that the Department budgeted the Claimant's gross earned income based on her submitted pay stubs on January 31, 2014. See Hearing Summary, Exhibit 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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.

At the hearing, the Department testified as follows to Claimant's submitted January 2014 pay stubs: pay date of January 3, 2014, gross pay of \$1,185.12, pay included overtime (80 hours regular plus 48 hours overtime/holiday), and biweekly pay; and (ii) pay date of January 17, 2014, gross pay of \$1,152.20, pay included overtime (80 hours regular plus 40 hours overtime/holiday), and biweekly pay. Converting the above two biweekly pay stubs to a standard monthly amount, results in a total of \$2,512. BEM 505, pp. 7-8. The Department also testified as to Claimant's February 2014 pay stubs, which also included overtime hours. However, based on the Department's testimony, the gross earned income was calculated with Claimant's January 2014 pay stubs. It should be noted that the Department testified as to Claimant's February 2014 pay stubs as follows: pay date of February 14, 2014 in the gross amount of \$1,331.20; and pay date of February 28, 2014 in the gross amount of \$1,250.96.

Claimant did not dispute her pay calculations, i.e. how much overtime she had. However, Claimant disagreed with the Department including her overtime pay in the budget calculations. Claimant testified that her normal hours are 80 hours biweekly and that she only worked the overtime for a few months due to the holidays.

Based on the foregoing information, the Department properly calculated Claimant's gross earned income in the amount of \$2,512 effective March 1, 2014, ongoing. Claimant's January 2014 pay stubs included significant overtime hours, which accurately reflected what she is expected to receive. BEM 505 states in regards to prospecting income, the Department is required to use income from the past thirty 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. In this case, Claimant's January and February 2014 pay stubs included overtime hours. Therefore, it was proper for the Department to include her overtime hours in the budget calculation as it accurately reflected what she is expected to be received in the benefit month. See BEM 505, p. 5.

It should be noted that the Department also provided an April 2014 budget, which included the same calculations for March 2014. See Exhibit 1. This decision references the April 2014 budget in order to demonstrate the 20 percent earned income deduction and additional deductions as applied to her budget. See Exhibit 1.

The Department then applied the 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$2,512 is \$503, which results in a post

earned income of \$2,009 (\$2,512 total income amount minus \$503 earned income deduction). See Exhibit 1. The Department then applied the \$151 standard deduction applicable to Claimant's group size of two. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$151 standard deduction, this results in an adjusted gross income of \$1,858. See Exhibit 1.

Then, Claimant testified that the FAP group does not contain any SDV members. For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. RFT 255, p. 1. RFT 255 indicates that the standard shelter maximum for non-SDV members is \$478. RFT 255, p. 1.

The budgets indicate that Claimant's monthly housing expense is \$301, which Claimant did not dispute. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554 (February 2014), pp. 14-15. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.


Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$854. See Exhibit 1. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,858 adjusted gross income. Fifty percent of the adjusted gross income is \$929. See Exhibit 1. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$0 because fifty percent of the gross income exceeds the total shelter amount. See Exhibit 1. Thus, Claimant is not entitled to an excess shelter deduction. See BEM 556 (July 2013), pp. 4-5.

The Department then subtracts the \$1,858 adjusted gross income from the \$0 excess shelter deduction, which results in a net income of \$1,858. See Exhibit 1. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$15 effective March 1, 2014, ongoing. RFT 260 (December 2013), p. 24.

DECISION AND ORDER

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 properly calculated Claimant's FAP benefits in the amount of \$15 effective March 1, 2014, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 1, 2014

Date Mailed: April 1, 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 48909-07322

EJF/tlf

cc:

