

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-31913  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: May 1, 2014  
County: Wayne (35)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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, an in-person hearing was held on May 1, 2014, from Redford, Michigan. Participants included the above-named Claimant. [REDACTED] Claimant's mother, testified on behalf of Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). [REDACTED] testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] [REDACTED] Hearing Facilitator.

**ISSUE**

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

**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 FAP benefit recipient.
2. On 12/13/13, DHS mailed a Notice of Case Action to Claimant informing Claimant of a FAP benefit issuance of \$152/month, effective 1/2014.
3. The DHS FAP determination was in part, properly based on the following monthly factors: \$24 in employment income, \$0 in medical expenses, \$176.92 in rent, and a standard deduction of \$151.

4. On 3/3/14, Claimant's mother requested a hearing tied to a DHS Notice of Case Action dated 12/17/12 which affected Claimant's FAP eligibility beginning 1/2013.

### **CONCLUSIONS OF LAW**

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of the hearing request, it should be noted that two hearing requests were submitted. Claimant submitted a handwritten request to DHS on an unspecified date. Claimant's request noted special arrangements in order to participate and/or attend the hearing; specifically, it was noted that Claimant does not drive. Claimant's mother was asked during the hearing whether the State of Michigan needed to provide accommodations for her daughter. Claimant's mother testified that no such special accommodations were necessary.

Claimant's handwriting was not easily readable but her hearing request suggested that Claimant had to rely on Social Security Administration income to pay for a portion of her food expenses. A need to spend SSA-issued income to purchase food provides no insight into whether DHS properly calculated Claimant's FAP eligibility. Claimant's request, by itself, failed to suggest any error by DHS in determining Claimant's FAP eligibility.

Claimant's mother also submitted a hearing request to DHS. As it happened, at the time of decision writing, the hearing request was absent from the hearing file. Presumably, Claimant's mother accidentally kept the hearing request after she examined the case file during the hearing. It is known that the request was submitted to DHS on 3/3/14. It is also known that the request was tied to a case action DHS made on 12/13/13 concerning Claimant's FAP eligibility beginning 1/2014.

Claimant's mother testified that she intended to dispute her daughter's FAP benefit issuances since 11/2013. Her subsequent testimony suggested that she intended to dispute multiple case actions, as early as 9/2013. Presumably the case action from 9/2013 affected Claimant's FAP eligibility beginning 10/2013. Claimant's hearing request failed to suggest any dispute other than the DHS case action dated 12/13/13 affecting Claimant's eligibility beginning 1/2014. Accordingly, Claimant is found to be restricted to disputing a FAP benefit determination, effective 1/2014.

It should be noted that DHS implemented a state-wide reduction of a standard FAP benefit utility credit beginning 10/2013. The utility credit reduction adversely affected

many FAP benefit recipients with income. It is also known that the expiration of a federal program resulted in a decrease of benefits for all FAP benefit recipients, beginning 11/2013. Both actions were accompanied by notices explaining that there was no basis to dispute an accompanying FAP benefit reduction unless there was a dispute concerning some other FAP benefit factor. Thus, Claimant's mother likely knew and accepted that her daughter's FAP benefits were reduced for 10/2013 and 11/2013 despite her current objections.

Claimant's mother testified that her husband has been very ill. Claimant's mother testified that she and her daughter are good people. Claimant's mother testified that she thought it was important that her daughter worked one hour per week. Claimant's mother testified that she and her daughter think it is important to give back to the community. Claimant's mother testified that she and her husband have taken care of her daughter for several years. Claimant's mother testified that her daughter has held several jobs. Claimant's mother testified that she has limited funds in assisting her daughter. Claimant's mother testified that her daughter excelled in a rehabilitation program in the 1970s. Claimant's mother thought that some or all of this testimony was relevant to Claimant's FAP eligibility for 1/2014; it was not.

BEM 556 outlines how DHS determines FAP eligibility. FAP benefit determinations factor only the following: income, standard deduction, shelter expenses, a standard utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, Claimant's mother received a budget summary to peruse. Claimant's mother cited four relevant areas of dispute.

Claimant's mother initially contended that DHS improperly calculated her daughter's earned income. Claimant's mother conceded that her daughter worked one hour per week as of 12/13/13, the date of the DHS determination in dispute. DHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3. BEM 505 (10/2010), p. 6.

Claimant earned \$7.45/hour for her employment. Multiplying Claimant's weekly wages by 4.3 results in a monthly income of \$32. DHS determined Claimant's income to be \$24/month. Presumably, the DHS calculation was based on Claimant working only 3 of 4 weeks. Based on the presented evidence, DHS did not err in determining Claimant's wage income.

Claimant's mother testified that her daughter paid \$177/month in rent. DHS factored a rent of \$176.92. Claimant's mother conceded there was no need to dispute the \$.08 alleged discrepancy.

Claimant's mother stated that she could neither confirm whether DHS properly determined a \$151 standard deduction. A standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. It was not disputed that Claimant's FAP benefit group size was

1. The standard deduction for a FAP group size of 1 is \$151 (see RFT 255 (12/2013), p. 1).

Eventually, Claimant, through her AHR, contended that DHS erroneously factored Claimant's medical expenses. DHS provides guidance on what expenses may be factored. Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.
- Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.
- Prescription drugs and the postage for mail-ordered prescriptions.
- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).
- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances).
- Medicare premiums.
- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness.

BEM 554 (7/2013), p. 9-11.

Claimant presented various food receipts (Exhibits 14-17). Claimant's mother testified that her daughter has to eat more expensive homemade food because cheaper and easier-prepared foods have too much salt. Claimant's mother relentlessly contended that Claimant's food purchases were medically necessary, and therefore, should be factored by DHS as a medical expense.

Food is food. It is not an allowable medical expense. Accordingly, DHS properly did not factor Claimant's food purchases as a medical expense.

Claimant's presented receipts for personal training and a gym membership (Exhibits 5-7; 10). Claimant's mother contended that the training was medically necessary for her daughter. Presumably, if Claimant's daughter required physical therapy, it would have

been performed by a physical therapist, not a fitness trainer. It is found that DHS properly did not factor Claimant's fitness expenses as a medical expense.

Claimant presented a receipt (Exhibit 3) listing a balance for a shoe store. A receipt verifying a shoe store balance is insufficient evidence of a medical expense.

Claimant presented documents seeking reimbursement for her daughter's school attendance as a medical expense. Transportation costs for school are not medical expenses.

The dates of medical expenses are relevant in determining whether DHS erred by not factoring the medical expenses. Expenses incurred or verified after 12/13/13 could not have been factored by DHS in Claimant's FAP eligibility.

Claimant presented receipts for dental expenses (Exhibits 1-2), shoes and stockings (Exhibits 4; 11-13), and prescriptions (8-9). Claimant's receipts for shoes (Exhibits 4 and 11) were for expenses incurred after 12/13/13. Claimant's prescription expense verification (Exhibits 8-9) included expenses before 12/13/13 but the document listed expenses after 12/13/13; thus, Claimant could not have submitted that document to DHS as of 12/13/13. Accordingly, DHS properly did not factor these expenses in Claimant's FAP eligibility, at least not as of 12/13/13.

Claimant is left with dental expenses from 7/2013. Claimant's mother testified that she reported and submitted proof of the expense to DHS in 11/2013. Claimant's mother also testified that she obtained a signature from a DHS staff person when she submitted the expenses though she forgot to provide proof of the submission.

Claimant's mother's testimony was aimless and unfocused throughout the hearing. Claimant's mother could not identify medical expenses as a source of dispute until her AHR brought up the subject. Claimant's mother did not identify DHS' alleged failure to budget medical expenses in her written hearing request. Claimant's mother allegedly bothered to obtain a signature as proof of her medical expense submission but did not bother to bring proof of the signature.


DHS reduced Claimant's FAP benefits in 1/2014 after Claimant's unearned income increased. Claimant's mother contended that Claimant's FAP eligibility should not have decreased because of a cost of living adjustment. Claimant's mother's contention has no basis in DHS regulations.

After recent FAP benefit reductions, it is probable that a 1/2014 FAP reduction was the tipping point for Claimant's mother. After receiving the notice on 12/13/13, Claimant's mother likely began submitting a slew of documents to DHS, some pertaining to medical expenses. The expenses may be countable in a FAP budget; however, they are not countable until reported and verified. As of 12/13/13, there is insufficient evidence that Claimant or her mother submitted countable medical expenses to DHS. Based on the presented evidence, it is found that DHS properly determined Claimant's FAP eligibility, effective 1/2014.

It is worth noting that this decision does not have jurisdiction to address whether DHS properly calculated Claimant's medical expenses in months following 1/2014. Claimant appears to have some countable and verified medical expenses. DHS imposes a \$35/month deductible when calculating a client's medical expenses (see BEM 556). Thus, Claimant must provide at least \$36 for a benefit month before any medical expenses will be counted by DHS.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility, effective 1/2014. The actions taken by DHS are **AFFIRMED**.

  
Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 5/9/2014

Date Mailed: 5/9/2014

**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

CG/hw

cc:

