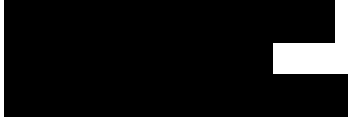


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201432478
Issue No(s): 1007; 3007
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly deny Claimant's application for Family Independence Program (FIP) 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 with her as the sole group member.
2. On January 2, 2014, Claimant filed an application for cash assistance and State Emergency Relief (SER) benefits and included her husband and her [REDACTED] son as household members.

3. On January 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her application for cash assistance was denied.
4. On February 4, 2014, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2014 her household size for FAP benefits would increase to 3 and her monthly FAP benefits would decrease to \$68.
5. On March 20, 2014, Claimant filed a request for hearing concerning her FAP and cash assistance cases.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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.

Additionally, Claimant requested a hearing concerning the decrease in her FAP benefits and the denial of her cash assistance application. Because Claimant did not identify herself as disabled in her January 2, 2014 application and because she indicated that she had a minor child living with her, the Department properly processed Claimant's application for cash assistance under the FIP program. BEM 210 (July 2013), p. 1; BEM 214 (July 2013), p. 1.

The Department explained that, because Claimant indicated in the January 2, 2014 application that she lived with her husband and minor child, it increased Claimant's FAP group size to three and considered her FIP eligibility based on a group size of three. It included Claimant's husband's earned income in the calculation of her FAP benefits and her FIP eligibility.

At the hearing, Claimant contended that she did not live with her husband and son at the time of application. She explained that she was separated from her husband and did not reside with him but used his address as her mailing address.

The Department testified that Claimant's testimony was inconsistent with her application and provided a copy of the January 2, 2014 application into evidence. In the application, Claimant identifies her husband and son as people in her home and requests benefits on their behalf. She also identified her husband's address as her mailing address. The Department also pointed out that in verifying her shelter expenses; Claimant provided evidence of the monthly \$876.94 monthly mortgage premiums paid on the house in which she testified her husband resided. Claimant testified that she had some disabilities that resulted in her being confused when she completed the application, but there was no evidence that she requested assistance from the Department at the time she completed her application.

At the hearing, Claimant testified that, despite the information on the application, she lived alone and her only income was her Supplemental Security Income. However, based on the information she provided in her application, the Department properly concluded that Claimant's FAP and FIP groups would include three members: Claimant, her husband and her son. See BEM 212 (October 2013), p. 1 (providing that for FAP purposes, spouses who are legally married and live together, as well as parents and their children under age 22 who live together, must be in the same group) and BEM 210 (July 2013), p. 1 (providing that the FIP group must include the dependent child and the parents with whom he lives). The Department also properly considered Claimant's husband's earned income in determining the group's FAP benefits and FIP eligibility. See BEM 210, pp. 1-2; BEM 556 (July 2013), p. 2.

FAP Calculation

In the February 4, 2014 Notice of Case Action, the Department notified that Claimant's FAP benefits would decrease to \$68 monthly effective March 1, 2014. The FAP budget for March 2014 ongoing was reviewed at the hearing.

The budget shows gross monthly earned income of \$2571, which the Department testified was based on Claimant's husband's January 2014 biweekly pay. A review of the pay shows that the Department used only the January 3, 2014 \$1196.16 paycheck, which was less than the other January 2014 paycheck, in calculating gross monthly earned income. Based on this biweekly pay, the Department properly concluded that Claimant's husband's gross monthly earned income was \$2751. See BEM 505 (July 2013), pp. 7-8. Claimant did not dispute the calculation of her husband's earned income.

Based on a group size of three, earned income of \$2571, and, as discussed above, a monthly shelter expense of \$876.94, under Department policy Claimant's FAP group was eligible for the following deductions from its gross income:

- a standard deduction of \$151 based on the three-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an earned income deduction of \$515, which is 20% of Claimant's husband's gross monthly earned income, rounded up to the next full dollar (BEM 556, p. 3);
- an excess shelter deduction of \$478, which takes into account Claimant's monthly housing expenses of \$876.94 and the \$553 heat and utility standard that applied at the time to all FAP recipients regardless of actual utility expenses and group size (RFT 255, p. 1; BEM 554 (February 2014), pp. 1, 12-15); and
- verified expenses for child care and child support and medical expenses in excess of \$35 for senior/disabled/veteran members of the group (BEM 554, p. 1).

Claimant admitted she did not have child care or child support expenses. Because she did not identify herself as disabled, she was not eligible for a medical expense deduction for expenses greater than \$35. BEM 554, p. 1.

Based on the information available to the Department at the time the budget was prepared, the Department properly reduced Claimant's \$2571 gross income by the \$151 standard deduction, the \$515 earned income deduction, and a \$478 excess shelter deduction. This results in monthly net income of \$1427. Based on net income of \$1427 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$68. BEM 556; RFT 260 (December 2013), p. 18.

Claimant was advised that she should file a change report to reflect that she lived alone and only had SSI income so that her FAP benefits could be recalculated for future months' benefits.

FIP Denial

The January 13, 2014 Notice of Case Action denied Claimant's FIP application because the group's income exceeded the income limit for receipt of FIP benefits.

In order to receive FIP benefits, a client must establish that financial need exists. BEM 518 (July 2013), p. 1. Financial need is established, in part, when an applicant passes the Qualifying Deficit Test. A client passes the Qualifying Deficit Test if the certified group's payment standard exceeds the certified group's budgetable income (after applying the qualifying earned income disregard) by at least \$10. BEM 515 (July 2013), p. 1; BEM 518, p. 1.

The payment standard is dependent on the FIP group size. For Claimant's FIP group size of three, the FIP monthly assistance payment standard is \$492. BEM 210 (July 2013), p. 5; RFT 210 (December 2013), p. 1. Therefore, Claimant is eligible for FIP if her group's budgetable income is less than \$492 and there is at least a \$10 deficit. BEM 518, p. 4.

An applicant with earned income is eligible for a qualifying earned income disregard in the calculation of budgetable income. BEM 518, p. 5. The Department deducts \$200

from each person's countable earnings, then an additional 20% of each person's remaining earnings, as long as the total disregard does not exceed the total countable earnings. BEM 518, p. 5.

At the hearing, the Department presented a FIP income test showing its calculation of Claimant's FIP group's income eligibility. The income test showed earned income of \$2571, which was, as discussed above, the calculation of Claimant's husband's gross monthly earned income. See BEM 505, pp. 2-8. Monthly income of \$2571, after a \$200 deduction, further reduced by a 20% deduction, results in budgetable income of \$1897. Because \$1897 exceeds the applicable \$492 payment standard, the Department acted in accordance with Department policy when it denied Claimant's FIP application.

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 decreased her FAP benefits effective March 1, 2014 and denied her January 2, 2014 FIP application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 28, 2014

Date Mailed: May 28, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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.

2014-32478/ACE

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 48909-07322

ACE/tlf

cc:

