

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 14-015473
Issue No.: 3001
Case No.: ██████████
Hearing Date: December 04, 2014
County: Wayne-District 18

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 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist/Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that the group's countable income exceeded the limit?

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 15, 2014, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2014, her FAP case would be closing on the basis that the group's net income exceeded the limit. (Exhibit 1)
4. On October 27, 2014, Claimant submitted a hearing request disputing the Department's actions.

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.

In this case, Claimant's eligibility to receive FAP benefits was reviewed in connection with a redetermination. After review, the Department determined that Claimant's income exceeded the limit for FAP purposes and initiated the closure of her FAP case effective November 1, 2014. (Exhibit 1). The Department determined that Claimant's group had net income of \$2156 and testified that the net income limit for a group size of three was \$1650. RFT 250 (October 2014), p. 1.

In calculating a client's FAP benefits, 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 veterans pension and compensation benefits in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28, 35-39.

At the hearing, the FAP EDG Net Income Results Budget for was reviewed to determine if the Department properly determined that Claimant had excess net income and was thereby ineligible for FAP benefits. (Exhibit 2). The Department concluded that Claimant's group had earned income of \$752, which it testified came from Claimant's son's employment. The Department testified that based on the information found in the redetermination, Claimant's son was a mandatory member of the FAP group, as he lived with Claimant and they purchased and prepared food together. Claimant and her husband disputed the Department's position and credibly testified that while their son does live in the home, he only sleeps there and that they do not purchase, prepare or eat together. Claimant testified that her son eats out and is hardly ever home, as he is ■ years old and has his own life.

FAP group composition is established by determining all of the following: who lives together; the relationships of the people who live together; whether the people living together purchase and prepare food together or separately; and whether the person resides in an eligible living situation. BEM 212 (July 2014), p. 1. Claimant and her husband provided sufficient evidence to establish that their son does not purchase and

prepare food with them and as such, should not be included in the FAP group. BEM 212, pp. 1, 5-6. Thus, the Department improperly considered Claimant's son's income in the calculation of net income for FAP purposes.

According to the FAP budget provided, the Department concluded that Claimant had unearned income of \$1779 which it testified came from \$1219 in RSDI benefits and \$560 in veteran benefits for Claimant's husband. Claimant confirmed that he receives RSDI and veteran benefits in those amounts. The Department also provided an SOLQ in support of its testimony. (Exhibit 3). Thus, the Department properly calculated Claimant's unearned income.

Although the budget shows that the Department properly applied the \$154 standard deduction applicable, as discussed above, the certified group size should be two, rather than three. RFT 255 (October 2014), p.1.

Claimant's husband 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 a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. The budget reflects a medical deduction of \$70, based on a \$104.90 Medicare insurance premium that was being deducted from Claimant's husband's monthly RSDI benefit. The Department testified that this was in error, as Claimant's husband had opted out of the medical insurance premium, which Claimant's husband confirmed. (Exhibit A). Claimant's husband testified that \$25 is deducted from his monthly veteran benefit due to copay from unpaid medical bills, however, because this is below \$35, it is not taken into consideration as a medical expense on the budget. Thus, the Department improperly included a \$70 medical deduction on the FAP budget.

The Department testified that it considered housing expenses based on verified property taxes and home insurance and the budget shows that the \$553 mandatory heat and utility standard was also considered. BEM 554 (May 2014), pp. 1, 14-19.

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 income, group size, and medical deduction, the Department did not act in accordance with Department policy when it determined that Claimant's net income exceeded the limit for FAP purposes.

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. Reinstate Claimant's FAP case effective November 1, 2014;
2. Recalculate the FAP budget for November 1, 2014, ongoing;
3. Issue FAP supplements to Claimant from November 1, 2014, ongoing, in accordance with Department policy; and
4. Notify Claimant in writing of its decision.



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

Date Signed: **12/9/2014**

Date Mailed: **12/9/2014**

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]