

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

**IN THE MATTER OF:**

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████████████████████  
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Reg. No.: 14-016824  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: December 22, 2014  
County: Wayne-District 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 December 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) monthly 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. On November 13, 2014, Claimant applied for FAP benefits.
2. The Department approved Claimant for monthly FAP benefits of \$68.
3. On November 24, 2014, Claimant filed a request for hearing disputing the Department's calculation.

**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.

Additionally, Claimant requested a hearing disputing the Department's calculation of her monthly FAP benefits. The Department presented a FAP net income budget showing the calculation of Claimant's FAP benefits that was reviewed with Claimant at the hearing. The budget showed gross monthly earned income totaling \$4248 that the Department testified was based on the gross weekly pay shown on the paystubs Claimant provided for October 2014: \$907.74 paid on October 3, 2014; \$1012.70 paid on October 10, 2014; \$1043.60 paid on October 17, 2014; and \$622 paid on October 31, 2014. Claimant confirmed that these figures were accurate. The Department testified that, based on year-to-date information on the paystubs provided, it determined that \$773.61 was paid on October 24, 2014. Claimant disputed this calculation. However, when the October 31, 2014 year-to-date pay is reduced by the October 17, 2014 year-to-date pay and the \$662 paid on October 31, 2014, the result confirms that \$773.61 was paid on October 24, 2014, consistent with the Department's calculation. Although the pay fluctuates, Claimant confirmed that the fluctuations were due to overtime that her husband commonly received between October and December of each year. Because overtime was commonly received at the time of application, the Department properly considered the total amount paid, as shown on the paystubs provided by Claimant, in calculating her household's gross monthly income. BEM 501 (July 2014), p. 6; BEM 505 (July 2014), pp. 5-6. The average of Claimant's weekly pay from the five paystubs considered (which is \$871.93), multiplied by 4.3 in accordance with Department policy, results in gross monthly earned income of \$3749, which is less than the \$4248 considered by the Department. Therefore, the Department has failed to show that it calculated Claimant's gross monthly earned income in accordance with Department policy.

The deductions to income on the budget were also reviewed. Claimant acknowledged that there were seven members in her FAP group and that there were no senior/disabled/veteran (SDV) members in the group. Groups with earned income and no SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction up to \$490, which is based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.
- Earned income deduction equal to 20% of the group's earned income.

- A standard deduction based on the FAP group size.

BEM 554 (October 2014), p. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (October 2014), p. 1.

Because the Department failed to properly calculate Claimant's household's gross monthly earned income, the 20% earned income deduction is not properly calculated. The budget showed a standard deduction of \$220, the applicable standard deduction based on Claimant's seven-person group size. RFT 255, p. 1. Because Claimant confirmed that she had no child support or day care expenses, the budget properly did not include such expenses.

In calculating the excess shelter deduction, the Department considers Claimant's monthly housing expenses and the applicable utility standard, decreased by 50% of the adjusted gross income. BEM 556, pp. 4-5. The excess shelter deduction budget shows that the Department applied the \$553 mandatory heat and utility standard, the most beneficial utility standard available to a client. See BEM 554, pp. 14-23; RFT 255, p. 1. In determining Claimant's monthly shelter expenses, the Department testified that it considered Claimant's monthly \$800 land contract payments, yearly \$759 home owner's insurance premium, \$1540.27 2013 winter property taxes, and \$540.59 2013 summer property taxes. However, the Department acknowledged that Claimant included her \$1616.10 2014 winter taxes with her application. It is unclear why the Department did not use the more recent property taxes. See BEM 554, p. 14. Because the Department did not use the most recent property taxes verified by Claimant and because, as discussed above, the adjusted gross income was not properly calculated, the Department did not act in accordance with Department policy when it calculated Claimant's excess shelter deduction.

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 did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

### **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. Recalculate Claimant's FAP benefits for November 13, 2014 ongoing; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 13, 2014 ongoing.



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

Date Signed: **12/29/2014**

Date Mailed: **12/29/2014**

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**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]