

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017616
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: January 12, 2015
County: Oakland (03)

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 January 12, 2015, from Southfield, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility following a statewide change in utility standard credit.

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. As of [REDACTED], Claimant was the only member of her FAP benefit group.
3. As of [REDACTED], Claimant had a monthly income of \$755.
4. As of [REDACTED], Claimant was responsible for paying electricity and telephone.
5. As of [REDACTED], Claimant had \$84/month in medical expenses.
6. As of [REDACTED], Claimant last reported to DHS a rental payment of \$227.

7. On [REDACTED], DHS determined Claimant to be eligible for \$61 in FAP benefits, effective 12/2014.
8. On [REDACTED], Claimant requested a hearing to dispute her FAP benefit eligibility for 12/2014.

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).

Claimant's hearing request noted that she had a language barrier. Claimant's native language is Russian, though Claimant also spoke English. During the hearing, Claimant was asked if she needed an interpreter or if her English skills were strong enough for her to participate in the hearing without an interpreter. Claimant testified that she could participate without an interpreter, particularly if hearing statements were slowly spoken. Claimant was advised that the hearing would occur without an interpreter, but that she could request one at any point during the hearing. The hearing was conducted without an interpreter and in English, without any complaint by Claimant.

Claimant requested a hearing to dispute a reduction in FAP benefits. DHS provided testimony that Claimant's FAP eligibility was reduced following a statewide policy change. Before 12/2014, DHS gave maximum utility credits to all FAP recipients. Beginning 12/2014, DHS only gave utility credits for utilities paid by benefit recipients. Though the DHS testimony provides an explanation for a reduction in Claimant's FAP eligibility, the explanation does not verify that DHS issued the proper FAP benefit amount to Claimant for 12/2014.

This decision will evaluate Claimant's entire 12/2014 FAP budget. BEM 556 outlines how to determine FAP eligibility.

Claimant testified that she received \$755/month in Social Security Administration benefits as of 12/2014. Claimant's testimony was undisputed.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups

containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant was a disabled person.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant testimony conceded that She paid no had no day care or child support expenses. Claimant conceded that her medical monthly expenses did not exceed \$84. Applying a \$35/month deductible to Claimant's medical expenses, results in a countable medical expense of \$49/month.

Claimant testified that she pays for cable television, internet service, and for upkeep on a vehicle. Claimant also testified that she buys toilet paper and other necessities. Claimant's testimony implied that DHS should factor all of her purchases in her FAP budget. There is no basis within DHS policy provides to budget expenses of cable television, internet, vehicle, or toilet paper expenses within a FAP budget.

Claimant's FAP benefit group receives a standard deduction of \$154. RFT 255 (10/2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction, countable medical expenses, day care expenses, and child support expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$552.

Claimant testified that her rent increased from \$227 to \$253/month. Claimant testimony conceded that she did not report the rent increase to DHS until after she requested a hearing.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 1. Thus, for purposes of evaluating the correctness of the DHS determination dated [REDACTED], it is found that DHS should have used Claimant's then-last reported rent of \$227.

Claimant testimony conceded that she was not responsible for paying water, heat, or trash collection expenses. DHS credited Claimant with electricity and telephone obligations. RFT 255 credits client for \$124 for an electricity obligation and \$34 for a telephone obligation.

Claimant's total utility credit is found to be \$158/month. Claimant's total shelter obligation is found to be \$385.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$109.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant's FAP benefit group's net income is found to be \$443. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's FAP benefit group size and net income, Claimant's proper FAP benefit issuance for 12/2014 is found to be \$61, the same amount calculated by DHS (see Exhibits 1-3).

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 to be \$61, effective 12/2014. The actions taken by DHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/16/2015**

Date Mailed: **1/16/2015**

CG / hw

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:

