

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

IN THE MATTER OF:

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Reg. No.: 14-018796
Issue No.: 3008
Case No.: ██████████
Hearing Date: January 28, 2015
County: Oakland-District 2

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 three way telephone hearing was held on January 28, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) 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.
2. On October 3, 2014, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2014, her monthly FAP benefits would be decreased to \$16. (Exhibit 1, pp. 9-11)
3. On December 11, 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.

Claimant requested a hearing disputing the decrease in her FAP benefits for the period of November 1, 2014, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for November 2014 which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$16 in monthly FAP benefits. (Exhibit 1, pp. 6-8).

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) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), p. 28. The Department concluded that Claimant had unearned income in the amount of \$1154 which it testified came from her monthly RSDI benefits. Claimant confirmed that she receives RSDI benefits in the amount of \$1154, thus, the Department properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of her FAP group and 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 the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and there was no evidence presented that she had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating the excess shelter deduction, the budget shows that the Department properly applied the maximum \$553.00 standard heat and utility deduction available to FAP groups responsible for certain heating and utility expenses. BEM 554, pp. 16-19. With respect to housing expenses, the Department testified that at the time the budget was completed, the housing expense on file for Claimant was \$48, which was reflected in the budget. Claimant disputed the Department's testimony and asserted that she has housing expenses of \$271 monthly. The Department stated that it did not receive proof of Claimant's increased housing expenses until on or around January 5, 2015. The Department did not present the documentation received for review at the hearing, however.

Claimant testified that her rent increased in November 2014 and that she provided her landlord with the shelter verification form to complete and submit to the Department. Claimant stated that her landlord completed the form and submitted it to the Department in November 2014 and that it was resubmitted a second time in December 2014, as the Department did not have it. Claimant indicated that during this period, her case was transferred to different Department offices and her case worker was also changed, so she should not be responsible for any delay in processing her shelter verification.

BAM 220 provides that with respect to FAP cases, the Department is to act on a reported change such as a change in shelter expenses, within 10 days of becoming aware of the change. Changes which would result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the change was reported, provided any necessary verification was returned by the due date. If necessary verification is **not** returned by the due date, the Department is to take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. If verification is required or deemed necessary, the Department is to allow the household 10 days from the date the change is reported to provide the verification. The change must still affect the correct issuance month. For example, the first benefit month occurring 10 days after the date the change was reported. BAM 220 (October 2014), pp. 6-7. At the hearing, the Department did not present sufficient evidence to establish that it timely requested Claimant verify her change in housing costs or that it provided Claimant with the time required by policy to submit the verification of her rental increase, so that the change could be timely processed and applied to her FAP budget.

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 shelter expenses/housing costs, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$16 effective November 1, 2014.

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 budget for November 1, 2014, ongoing, in accordance with Department policy, taking into consideration the date she reported the change in her housing expenses; and
2. Issue FAP supplements to Claimant for any benefits she was entitled to receive but did not from the date of reported change, ongoing, in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/6/2015**

Date Mailed: **2/6/2015**

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]