

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018759
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: March 16, 2015
County: Wayne (76)

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 an in-person hearing was held on March 16, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], supervisor, and [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 last reported to DHS that she lived in a household with her adult son.
3. As of 1/2015, Claimant received \$790/month in gross Retirement, Survivors, Disability Insurance (RSDI).
4. As of 1/2015, Claimant's son received \$659.70 in Supplemental Security Income (SSI) benefits.

5. As of 1/2015, Claimant failed to report to DHS that she incurred medical expenses.
6. On [REDACTED] DHS mailed Claimant a Notice of Case Action (Exhibits 1-4) informing Claimant that she was eligible for \$164/month in FAP benefits, in part, based on a 2-person FAP group, household income of \$1417, and \$0/month in medical expenses.
7. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility.

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 special arrangements were required for participation and/or attendance for the hearing; specifically, an in-person hearing was requested. Claimant's request was granted and the hearing was conducted accordingly.

Claimant testified that she requested a hearing to dispute her eligibility for cash assistance and medical coverage. Claimant's hearing request stated that the only program in dispute was FAP. Administrative hearing jurisdiction is based on a claimant's hearing request. Claimants may not request a hearing for one reason and surprise DHS with new disputes at the hearing. It is found that Claimant failed to establish jurisdiction for a hearing concerning cash or medical eligibility. This decision's analysis will be restricted only to FAP, the only dispute for which Claimant gave notice.

Claimant testified that she requested a hearing, in part, to dispute a DHS failure to comply with a two year old hearing decision. Claimant's hearing request stated "why she cut me + my son decreased food stamps case for two years". The hearing request made no mention of a previous hearing decision. Claimant failed to bring the hearing decision order with which DHS allegedly failed to comply. Again, due to Claimant's failure to explain the purpose of her dispute in her hearing request, Claimant's hearing request will not be interpreted to include a dispute concerning a previous administrative hearing decision.

DHS provided credible testimony that Claimant was eligible for \$170 in FAP benefits in 10/2014, 11/2014, and 12/2014. On [REDACTED], DHS issued a Notice of Case Action (Exhibits 1-4) informing Claimant of a FAP benefit reduction, effective 1/2015, to \$164.

Presented evidence was highly suggestive that Claimant requested a hearing to dispute the reduction of FAP benefits from \$170 to \$164. This decision's analysis will focus on the correctness of Claimant's FAP eligibility from 1/2015. BEM 556 outlines how DHS is to calculate FAP eligibility.

DHS determined Claimant's FAP eligibility based on a group size of 2 persons. Claimant testified that she has always lived with her 2 children. Claimant testified that there was no way that she ever reported to DHS that she did not live with her children. DHS responded by finding two of Claimant's State Emergency Relief applications from 2014. On the SER application, Claimant listed two persons as household members, herself and her adult son; Claimant did not list her daughter as a household member on either SER application. DHS also presented undisputed testimony that Claimant's adult daughter received FAP benefits separately from Claimant as of 12/2014. The DHS evidence obliterated Claimant's allegation that DHS improperly failed to factor Claimant's daughter in Claimant's FAP eligibility. It is found that DHS properly factored Claimant's FAP eligibility for 1/2015 based on a two-person FAP benefit group.

It was not disputed that Claimant and her adult son received Social Security Administration (SSA) benefits. DHS factored a household unearned income of \$1,417 (see Exhibit 2). Claimant alleged that she and her son's combined SSA income was less than \$1,417.

DHS presented an SOLQ for Claimant (Exhibits 5-7) and her son (Exhibits 8-10). Claimant's SOLQ listed a "net monthly benefit if payable" amount of \$790 in RSDI. Claimant's son's SOLQ listed a SSI gross payable amount of \$659.70. DHS evidence tended to verify a combined household income of \$1,449.70.

Claimant testified that her RSDI was reduced to \$750 due to garnishment for a student loan. Claimant presented a letter from the Department of Treasury dated [REDACTED] (Exhibit A1). The letter informed Claimant that she owed a delinquent debt with the Department of Education. The letter stated that garnishments could be up to 15% of Claimant's income, but that Claimant's income could not be reduced below \$750/month.

Claimant's evidence had multiple problems. First, Claimant's letter from the U.S. Treasury provided no specifics of garnishment. Though it is possible that Claimant's RSDI was reduced to \$750 due to garnishment, Claimant's letter only verified the possibility of garnishment, not the reality of garnishment. Secondly, Claimant's testimony will not be accepted as persuasive evidence because of her lack of credibility concerning her daughter's residency. Thirdly, and most importantly, even if Claimant's RSDI was verified to be reduced to repay student loans, DHS policy still requires that DHS budget the gross RSDI.

For all programs, Bridges (the DHS database) counts the gross benefit amount as unearned income. BEM 503 (7/2014), p. 28. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 (7/2014), p. 4.

It is found that DHS should have budgeted \$1,449.70 in determining Claimant's FAP eligibility. DHS budgeted a lesser and more favorable amount of income for Claimant; thus, Claimant is entitled to no remedy.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (10/2014), 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 disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant conceded that she had no day care or child expenses. Claimant alleged that she had \$100/month in medical expenses. DHS budgeted \$0 for Claimant's medical expenses.

Claimant's testimony concerning medical expenses was dubious when factoring that Claimant was eligible for Medicaid and Medicare. Typically, recipients of Medicare and Medicaid have very few out-of-pocket medical expenses. Claimant brought no evidence of out-of-pocket medical expenses.

DHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 (10/2014), p. 8. DHS is to base the estimate, in part, based on verified allowable medical expenses. *Id.*

Based on presented evidence, it is found that Claimant failed to report or verify any medical expenses. Accordingly, it is found that DHS properly budgeted \$0 medical expenses in Claimant's FAP determination.

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 is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1,263.

It was not disputed that Claimant's rent was \$700/month. DHS credited Claimant with the standard maximum utility credit of \$553. Claimant's total shelter obligation is \$1253/month.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from

Claimant's total shelter obligation. Claimant's excess shelter amount is found to be \$622 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$641. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$164, the same amount calculated by DHS.

It should be noted that Claimant submitted a "timely hearing request". A timely hearing request is a request received by DHS within 10 days of the date the notice of case action was issued. BAM 600 (1/2015), p. 23. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. *Id.*

Despite Claimant's timely hearing request, DHS did not suspend the threatened reduction of Claimant's FAP eligibility, pending the outcome of the hearing. DHS could be reasonably expected to issue a supplement to Claimant for \$18 in FAP benefits. If DHS did so, DHS would then be entitled to recoup \$18 from Claimant's ongoing FAP eligibility (see BAM 700). In the interest of efficiency, DHS will not be ordered to supplement Claimant for \$18 in FAP benefits, just so that \$18 could be recouped.

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, effective 1/2015, as \$164/month. The actions taken by DHS are **AFFIRMED**.



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

Date Signed: **3/19/2015**

Date Mailed: **3/19/2015**

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:

