

**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.: 15-002022
Issue No.: 3008
Case No.: ██████████
Hearing Date: March 16, 2015
County: Wayne-District 31

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist, and ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for February 1, 2015 ongoing?

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. Claimant's FAP group consisted of Claimant and her daughter.
3. In connection with a redetermination, the Department recalculated Claimant's FAP eligibility and allotment for the certification period running from February 1, 2015 to January 31, 2016.
4. On February 6, 2015, the Department sent Claimant a Notice of Case Action advising her that she was approved for monthly FAP benefits of \$237.
5. On February 11, 2014, Claimant filed a request for hearing disputing the Department's findings.

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 filed a request for hearing disputing the Department's calculation of her monthly FAP benefits. Although the Department testified that the reduced FAP benefits were issued beginning March 1, 2015, the FAP net income budget shows that Claimant's certification period runs from February 1, 2015 to January 31, 2016. Because the Department failed to provide the Notice of Case Action advising Claimant of her reduced FAP benefits and in light of the evidence that the redetermination affected eligibility for a February 1, 2015 to January 31, 2016 certification period, the evidence supports a finding that the reduced FAP benefits affected Claimant's FAP benefits for February 1, 2015 ongoing.

A copy of the net income budget used by the Department in calculating Claimant's FAP benefits was reviewed with Claimant at the hearing (Exhibit G). The budget showed unearned income of \$833, which the Department testified was the sum of (i) \$683 in gross monthly Supplemental Security Income (SSI) received by Claimant's daughter, (ii) \$70 in gross monthly Retirement, Survivors and Disability Insurance (RSDI) income received by the daughter, (iii) \$14 in monthly State SSI Payment (SSI) based on the quarterly \$42 payment made by the State to Claimant's daughter; and (iv) \$66.58 in gross monthly child support.

Claimant confirmed the SSI and SSP amounts. Although she contended that her child received a few dollars less than the \$70 in RSDI used by the Department, the Department presented an SOLQ report, which shows information retrieved from the Social Security Administration (SSA), that supported its position that Claimant's daughter received \$70 monthly (Exhibit D). Claimant did not have any documentation to counter the Department's testimony. Claimant was advised that if she obtained any support regarding RSDI payment made to the child that was contrary to the Department's evidence, she should present it to the Department to possibly affect future benefits.

In support of the monthly child support figure of \$66.58, the Department testified that it relied on the consolidated inquiry showing Claimant's child support income for

November 2014, December 2014 and January 2015 (Exhibit B). In determining child support income, the Department must use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (July 2014), p. 3. In this case, Claimant's child support income for November 2014 was \$66.60, for December 2014 was \$66.60 and for January 2015 was \$0. Claimant explained at the hearing that she did not consistently received \$66 monthly. The average of the three months considered is \$44.39. Because the Department did not properly calculate Claimant's gross monthly child support average, it failed to act in accordance with Department policy in calculating her gross income from child support and, consequently, her FAP benefits.

The deductions to Claimant's income were also reviewed. Because Claimant's child receives SSI benefits, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (February 2014), pp 1-2. For groups with one or more SDV members, the following deductions are available from the group's total income:

- Standard deduction.
- 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.

BEM 554 (October 2014), p. 1.

Based on Claimant's two-person FAP group, Claimant was eligible for a \$154 standard deduction at the time the August 2014 budget was calculated. RFT 255 (October 2014), p. 1. Claimant confirmed that she had no day care, child support, or out-of-pocket medical expenses. Therefore, the budget properly showed no deductions for those items. Although the Department did not provide an excess shelter deduction budget showing the monthly shelter and utility standard used in calculating Claimant's excess shelter deduction of \$282 shown on the FAP budget, the Department testified that it used \$68 in monthly housing expenses (Exhibit F), which Claimant confirmed was her monthly rent, and the \$553 mandatory heat and utility standard, the most beneficial utility standard available to a client. BEM 554, pp. 14-20; RFT 255, p. 1. A review of the budget supports the Department's testimony concerning its use of \$68 for monthly shelter expenses and \$553 for the h/u standard. Therefore, although the Department improperly calculated Claimant's gross income, it considered the correct information in calculating the deductions available to Claimant's gross income.

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 gross monthly unearned income and, consequently, her monthly 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 February 1, 2015 ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 1, 2015 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

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

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

ACE / 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]
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