

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001196
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: March 25, 2015
County: Macomb (20)

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 March 25, 2015, from Warren, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility for 2/2015.

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. On an unspecified date in 6/2014, Claimant submitted documentation to DHS verifying a \$208/month rent and a telephone expense.
3. As of 2/2015, Claimant received \$737/month in Supplemental Security Income (SSI) benefits.
4. On [REDACTED], DHS determined Claimant's FAP eligibility, effective 2/2015, to be \$19 in part, based on \$0/month in rental expenses, \$737/month in SSI benefits, and no utility obligations.

5. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility for 2/2015.

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. DHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute her FAP eligibility effective 2/2015. Claimant's hearing request and testimony contended that DHS should factor all of Claimant's living expenses. Claimant's hearing request reported that she was responsible for buying clothes, shoes, toilet paper, aluminum foil, soap, powder, and deodorant. DHS does not specifically factor any of Claimant's reported expenses in a FAP determination. Presumably, DHS is aware that everybody has such expenses and that FAP issuances partially factor universal living expenses. It is found that DHS properly did not factor any of the above-listed expenses in Claimant's FAP determination.

FAP benefit budget factors include: group size, income, standard deduction, housing expenses utility credits, medical expenses, child support expenses, day care expenses, and senior/disability/disabled veteran status (see BEM 556). DHS presented a budget summary (Exhibit 2) for Claimant's 2/2015 FAP eligibility. During the hearing, all factors were discussed with Claimant. Claimant only raised disputes concerning income, housing expenses, and utilities.

DHS budgeted that Claimant received \$737/month in unearned income. Claimant testified that she received only \$723/month in federally-issued SSI benefits. DHS responded that Claimant also received state-issued SSI benefits averaging \$14/month. Claimant agreed that she received \$42/3 month in state-issued SSI and that her income was \$737/month.

DHS budgeted \$0 in housing expenses. Claimant testified that she had a \$208/month monthly rent. DHS conceded that Claimant's rent was \$208 and that it was verified on 1/22/15. DHS contended that Claimant failed to verify her rent before 1/2015.

Claimant responded that she submitted a copy of her lease to DHS in 6/2014. Claimant's testimony was not rebutted with first-hand testimony. DHS testimony conceded that it was reasonably possible that DHS misplaced Claimant's lease if it was submitted in 6/2014. DHS elaborated that 6/2014 was a time when DHS changed their document submission procedure and the chaos may have caused misplaced

documents. Based on the presented evidence, it is found that Claimant submitted her lease to DHS in 6/2014.

For non-income changes, [DHS is to] complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. BEM 220 (10/2014), p. 10. Based on the finding that Claimant reported and verified her rent to DHS in 6/2014, it can be found that DHS should have factored Claimant's rent of \$208 in determining Claimant's FAP eligibility for 2/2014.

DHS did not budget a telephone expense for Claimant. Claimant testified that she had a telephone expense. Claimant presented a copy of her telephone bill (Exhibit A1). Claimant's total bill was \$111.22. The bill included charges for internet service and installation. Claimant contended that she should be credited for the full amount of her bill.

A FAP group which has no heating/cooling expense but has a responsibility to pay for a traditional landline service, cellular phone service including per-minute or per-call service and voice over Internet protocol (VoIP) must use the telephone standard. BEM 554 (10/2014), p. 22. The standard covers only the telephone expense. *Id.* DHS is to not verify the telephone expense, unless questionable. *Id.*

DHS failed to present any evidence to justify a failure to credit Claimant with a telephone expense. Claimant should have been credited for the telephone standard credit of \$34 (see RFT 255). Claimant is not entitled to a higher telephone credit no matter how much she pays for her phone service. It is found that DHS erred by not factoring a \$34 telephone credit in Claimant's FAP eligibility.

Claimant could be better off applying for FAP benefits through the Michigan Combined Application Project (MiCAP). MiCAP is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). BEM 618 (7/2014), p. 1. One qualifying factor for MiCAP is receiving no income other than SSI. FAP eligibility through MiCAP generally is more client-friendly concerning issuance amounts and frequency of redetermination periods. The telephone number for MiCAP is 877-416-4227. The program is only noted as a possible way for Claimant to receive increased FAP assistance; Claimant is not entitled to any remedy related to MiCAP because she hasn't applied for the program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS determined Claimant's FAP eligibility for 2/2015. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility for 2/2015 by factoring Claimant's rent of \$208 and that Claimant is responsible for a telephone expense; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.



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

Date Signed: **3/27/2015**

Date Mailed: **3/27/2015**

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:

