

**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.: 15-003381
Issue No.: 3008
Case No.: ██████████
Hearing Date: April 06, 2015
County: Macomb-District 36

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 telephone hearing was held on April 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her caregiver, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

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. In connection with a semi-annual review, Claimant's eligibility to receive FAP benefits was reviewed.
3. On December 18, 2014, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2015, she was approved for FAP benefits in the amount of \$16 monthly. (Exhibit A)
4. On February 27, 2015, 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 January 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for January 1, 2015, which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$16 in monthly FAP benefits. (Exhibit B).

In calculating a client's FAP benefits, 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 determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8.

With respect to unearned income, 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 earned income of \$325 which it testified came from Claimant's employment. Because Claimant reported no changes in her income on her semi-annual review, the Department continued to consider the biweekly income on file for Claimant, specifically a pay check in the amount of \$133.72 and a second pay check in the amount of \$168.77. Claimant confirmed that the amounts used by the Department were accurate. After further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated

Claimant's earned income. The Department concluded that Claimant had unearned income in the amount of \$713 which it testified came from her monthly RSDI benefits. Claimant confirmed that she receives RSDI benefits in the amount of \$713, 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's group was eligible for an earned income deduction equal to 20% of any earned income, which the Department properly determined was \$65. There was no evidence presented that Claimant had any dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care or child support expenses. The Department testified and Claimant confirmed that she is responsible for monthly insurance premiums of \$104.90. The budget properly shows a medical deduction of \$70, which is the difference between the monthly insurance premium and the \$35 standard. Based on her confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction of \$111, the Department testified that it considered Claimant's confirmed \$485 monthly rental/housing expenses. (Exhibit B, p. 3). The Department explained that Claimant was no longer eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554, pp. 16-19; RFT 255, p. 1. FAP groups not eligible for the h/u standard who

have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

Although Claimant testified that she was responsible for telephone and heating expenses, Claimant confirmed that she did not provide the Department with any verification of such expenses prior to the hearing. Claimant stated that she would obtain a letter from her landlord in order to verify her responsibility for heating expenses to be applied towards her future FAP budgets. Thus, based on the information available to the Department at the time the budget was completed, the Department properly determined that Claimant was eligible for an excess shelter deduction of \$111. BEM 556, pp. 4-5.

After further review, the Department properly reduced Claimant's total gross income of \$1038 by the \$65 earned income deduction, the \$154 standard deduction, the \$70 medical deduction and the \$111 excess shelter deduction, resulting in monthly net income of \$638. Based on net income of \$638 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 9.

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 acted in accordance with Department policy when it calculated Claimant's FAP benefits for January 1, 2015, ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **4/9/2015**

Date Mailed: **4/9/2015**

ZB / tlf

