

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004985
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: April 27, 2015
County: Wayne (55)

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 April 27, 2015, from Hamtramck, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's sister testified on behalf of Claimant. [REDACTED] appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], specialist, and [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHHS 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. On [REDACTED], Claimant applied for FAP benefits.
2. Claimant received \$659.70/month in gross federally-issued Supplemental Security Income (SSI).
3. Claimant's utilities were included in rent.
4. Claimant has a balance on an inactive account with a heat and electric company.
5. On [REDACTED], DHHS approved Claimant's FAP application and determined that Claimant was eligible for \$38/month in Food Assistance Program (FAP)

benefits, in part, by factoring a monthly income of \$747 and no heat or electric utility obligation.

6. On [REDACTED], Claimant requested a hearing to dispute the amount of his FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. DHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. DHHS 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's hearing request stated that he objected to a reduction of FAP eligibility. A reduction implies that Claimant received FAP benefits and that DHHS lowered Claimant's ongoing eligibility. Hearing testimony verified that Claimant's FAP eligibility stopped and that Claimant reapplied for FAP benefits on [REDACTED]. Claimant's AHR indicated that Claimant disputed the amount of FAP benefits related to his application approval.

FAP benefit determinations factor the following: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, all FAP benefit factors were discussed. DHHS provided a FAP budget (Exhibits 1-3) which listed all factors in the disputed determination. The only amounts in dispute concerned unearned income and utilities.

DHHS determined Claimant's FAP eligibility, in part, based on \$733 in federally-issued SSI. During the hearing, DHHS accessed an online SOLQ. An SOLQ is a statement of a client's Social Security Administration (SSA) information obtained from a data exchange with SSA. DHHS conceded that the SOLQ listed Claimant's gross amount of federally-issued SSI as \$659.70.

It was not disputed that the SOLQ stated that SSA reduced Claimant's SSI issuances by \$73.30. DHHS contended that it was proper to count the monies recouped by SSA as Claimant's unearned income.

Bridges (the DHHS database) counts the gross amount of current SSA-issued SSI as unearned income. BEM 503 (July 2014), p. 32. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (January 2014), p. 5. These amounts are excluded as income. *Id.*

DHHS provided no basis to justify budgeting \$73.30 in recouped overpayments. It is found that DHHS erred by budgeting more gross SSI than authorized by policy.

Claimant also contended that DHHS erred in factoring Claimant's utility obligations. Claimant stated that he has a utility bill balance from a previous address. Claimant provided receipts of his payments (Exhibits A1-A2) on the old bill. Claimant contended that his occasional payment on an inactive utility account justifies a credit in the FAP budget for paying utilities.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. An expense is allowed if all of the following (see *Id.*):

- The service is provided by someone outside of the FAP group.
- Someone in the FAP group has the responsibility to pay for the service in money.
- Verification is provided, if required.

Responsibility to pay means that the expense is in the name of a person in the FAP group. *Id.*, p. 2. Do not allow any expense if the entire expense is directly paid by an agency or someone outside of the group. *Id.*

DHHS is to verify heating separate from housing costs at application, redetermination, or when a change is reported. *Id.*, p. 16 Acceptable verification sources include, but are not limited to: current bills or a written statement from the provider for heating/cooling expenses, collateral contact with the landlord or the heating/cooling provider, cancelled checks, receipts or money order copies (if current), DHHS-3688, Shelter Verification, or current lease. *Id.*

A FAP budget credit for a utility obligation is appropriate for an ongoing utility payment obligation. A balance for an old bill is not an ongoing obligation. It is found that DHHS properly excluded a credit for lights or gas in Claimant's FAP eligibility determination.

As discussed during the hearing, 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 (July 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 he 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 DHHS improperly processed Claimant's FAP application dated [REDACTED]. It is ordered that DHHS perform the following actions:

- (1) reprocess Claimant's FAP eligibility, effective [REDACTED], subject to the finding that Claimant's gross federally-issued SSI is \$659.70/month; and
- (2) supplement Claimant for any FAP benefits improperly not issued.

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

Christian Gardocki

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

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

