

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

IN THE MATTER OF:

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Reg. No.: 15-006500
Issue No.: 3008;5000
Case No.: ██████████
Hearing Date: May 28, 2015
County: Wayne-District 57

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 28, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Assistance Payment Supervisor and ██████████ ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly process Claimant's State Emergency Relief (SER) benefits and 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. Effective February 1, 2015, the amount of Claimant's monthly FAP benefits decreased to \$16. (Exhibit A)
3. Claimant was not an ongoing recipient of SER benefits and did not submit an application for SER benefits.
4. On April 21, 2015, Claimant requested a hearing disputing the Department's actions concerning her FAP and SER cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Claimant submitted a hearing request disputing the actions of the Department with respect to her SER benefits. Soon after commencement of the hearing, Claimant testified that she was not an active and ongoing recipient of SER benefits and that she had not submitted an application for SER prior to her filing of a hearing request. Claimant stated that she verbally requested assistance with receiving emergency food and testified that she was verbally refused/denied by the Department. Claimant stated that she was not informed by the Department that she needed to submit an application for emergency food assistance. However, because the Department had neither determined Claimant's eligibility for SER nor had the Department taken any negative action with respect to Claimant's SER benefits prior to her hearing request; Claimant's hearing request with respect to SER is **DISMISSED** for lack of jurisdiction. BAM 600 (April 2015), pp.2- 6. Claimant was informed that she was entitled to submit an application for assistance with emergency food and that the Department would determine her eligibility for benefits.

FAP

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. The Department (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.

Claimant requested a hearing disputing the decrease in her FAP benefits for the period of February 1, 2015, ongoing. At the hearing, the Department presented a budget summary from a December 28, 2014, Notice of Case Action which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$16 in monthly FAP benefits. (Exhibit A).

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 considers the gross amount of money earned from Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28, 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248 (January 2015), p. 1.

The Department concluded that Claimant had unearned income of \$767 which it testified came from \$533 in RSDI benefits, \$220 in SSI benefits and \$14 in SSP benefits for Claimant. The Department presented a SOLQ and an “other income search” summary in support of its testimony. Claimant also confirmed the amounts relied on by the Department. (Exhibit B). Therefore, the Department properly calculated Claimant’s gross 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 did not have any earned income and there was no evidence presented that she had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. 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, the Department considered Claimant’s confirmed \$213 monthly rental/housing expenses (Exhibit C). The Department explained that Claimant was no longer eligible for the \$553 heat and utility (h/u) standard because of the change in the policy requiring verification of expenses. Claimant verified that at the time the budget was completed, her monthly rent was \$213 and that she was not responsible for any other housing expenses such as heating, cooling, electricity, water, other than telephone expense, which the Department properly considered at \$34. BEM 554, pp. 16-19; BEM 556, pp. 4-5; RFT 255, p. 1.

After further review of the budget and Department policy, the Department properly determined that Claimant was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 8.

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 the amount of Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to SER is **DISMISSED** and the Department's FAP decision is **AFFIRMED**.



Zainab Baydoun

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

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

ZB / 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 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:

[REDACTED]