

**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.: 15-006475
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 01, 2015
County: Macomb-District 20 (Warren)

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on June 1, 2015, from Warren, Michigan. Because the action at issue was taken by the Department of Health and Human Service's (Department's) Hamtramck/Woody Plaza office, an attempt to contact that office by telephone was made. However, the hearing proceeded without a representative from the Hamtramck/Woody Plaza, with the agreement of the parties present, when no Hamtramck/Woody Plaza representative responded by 9:30 am. At the hearing, Claimant was represented by ██████████, Claimant's authorized hearing representative. Participants on behalf of Claimant included Claimant and ██████████, Claimant's brother. Participants on behalf of the Department included ██████████, Hearing Facilitator at the Warren office. ██████████, a Department intern, sat in on the hearing but did not participate.

ISSUE

Did the Department properly calculate 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 is an ongoing recipient of FAP benefits.
2. On April 22, 2015, Claimant filed a hearing request disputing the calculation of her FAP benefits since January 2015 ongoing.

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).

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.

At the hearing, the Department presented a copy of the FAP net income budget showing the information used to calculate Claimant's monthly FAP benefits from January 2015 ongoing (Exhibit A). The AHR reviewed the budget and stated that she had only two concerns: (i) that the budget included \$14 in monthly State SSI Payments (SSP) that Claimant could not verify receiving and (ii) the budget was based on a FAP group size of seven but there were only six individuals in the group.

Recipients of Supplemental Security Income (SSI) receive quarterly SSP payments, and the Department budgets the corresponding monthly SSP benefit amount as gross unearned income for FAP purposes. BEM 503 (July 2014), p. 33. The Department contended that it was likely that Claimant's son, who Claimant acknowledged received SSI, had SSP quarterly payments of \$42 automatically deposited into his account. However, the Department but did not have any documentation to support that position at the hearing. Therefore, the Department failed to satisfy its burden of showing that it properly included a monthly \$14 SSP allotment when it calculated Claimant's household's unearned income.

With respect to the group size, Claimant explained that she had notified the Department when her sister had left her group in October 2014. Because the Department continued to base FAP benefits for the household for a group size of seven when there were only six individuals in the FAP group, the Department did not act in accordance with Department policy in calculating Claimant's monthly FAP benefits.

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 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 January 1, 2015, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2015, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **6/2/2015**

Date Mailed: **6/2/2015**

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 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]