

**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.: 15-007044
Issue No.: 3008;5000
Case No.: ██████████
Hearing Date: June 04, 2015
County: Wayne District - 41

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 June 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Although Claimant's authorized hearing representative, ██████████ did not appear for the hearing, Claimant did not indicate that she did not want to proceed in her absence. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Liaison.

ISSUE

Did the Department properly process Claimant's State Emergency Relief (SER) benefits and calculate the amount of her 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. In April 2015, Claimant submitted an application for SER assistance that was denied by the Department.
2. Claimant was an ongoing recipient of FAP benefits.
3. Effective May 1, 2015, Claimant's FAP benefits were reduced to \$250 monthly.
4. On April 20, 2015, Claimant requested a hearing disputing the Department's actions with respect to her SER and FAP benefits.

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.

The hearing was requested to dispute the Department's action taken with respect to the denial of Claimant's SER application. Shortly after commencement of the hearing, Claimant testified that the issue that she requested a hearing on had been resolved as she had made the payments towards her relocation expenses. Claimant confirmed that she did not wish to proceed with the hearing with respect to SER and that the Department had not made any promises to her in exchange for her testimony. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

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 May 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for May 1, 2015, which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit A).

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 (April 2015), pp. 1 – 5. With respect to unearned income, the Department considers the gross amount of money earned from 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. FIP benefits received for the group are considered the unearned income of the head of household and included in the calculation of unearned income. BEM 503, p. 14.

In this case, the Department concluded that Claimant had unearned income in the amount of \$1021 which it testified consisted of \$733 in SSI benefits, \$14 in SSP benefits and \$274 in monthly FIP benefits. Claimant confirmed that the amounts relied on by the Department were correct, thus, the Department properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. Claimant is a senior/disabled/veteran (SDV) member of the FAP 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 did not have any earned income and was thus not eligible for an earned income deduction. There was no evidence presented that Claimant had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for dependent care expenses, child support, or medical expenses. Based on her confirmed three-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1. With respect to the \$0 excess shelter deduction, the Department testified that this was in error and that Claimant has housing costs of \$14 and that that she is eligible for the \$553 heat and utility standard, as Claimant is responsible for heating and utility expenses. The Department stated that it improperly excluded Claimant's housing costs as well as the \$553 heat and utility standard from the calculation of Claimant's excess shelter deduction.

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 because of the errors in the calculation of Claimant's housing expenses and excess shelter deduction, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$250 effective May 1, 2015.

DECISION AND ORDER

Accordingly, the hearing request with respect to SER is **DISMISSED** and the Department's FAP 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 budget for May 1, 2015, ongoing, and
2. Issue FAP supplements to Claimant from May 1, 2015, ongoing, in accordance with Department policy.



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

Date Signed: **6/10/2015**

Date Mailed: **6/10/2015**

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;

