

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

IN THE MATTER OF:

██████████
██████████
██████████████████

Reg. No.: 15-007514
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 15, 2015
County: Wayne-District 35 (Redford)

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, a telephone hearing was held on June 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

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. Claimant has four members in her FAP group: herself and her three children.
3. Claimant filed a request for hearing on May 5, 2015, disputing the calculation of her 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).

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 calculation of her FAP benefits. A client can request a hearing to dispute current FAP allotment at any time within the benefit period. BAM 600 (April 2015), p. 6. The Department presented a FAP net income budget showing the calculation of her current FAP benefits of \$139, which was reviewed with Claimant at the hearing (Exhibit D).

At the hearing, Claimant confirmed that there were four members in her FAP group, entitling Claimant to a standard deduction of \$164, as shown on the budget. RFT 255 (October 2014), p. 1. Because she confirmed that there were no senior/disabled/veteran (SDV) members in the group, the household was not eligible for any medical expense deductions. BEM 554 (October 2014), pp. 1, 8. The January 23, 2015, Notice of Case Action (Exhibit C) showed that Claimant paid \$900 in housing costs, which Claimant confirmed, and that she received the \$553 mandatory heat and utility (h/u) standard, which is the most advantageous utility standard available to a client. BEM 554 (October 2014), pp. 14-20; RFT 255 (October 2014), p. 1.

The only factor from the net income budget Claimant was unable to verify was the earned income. The Department testified that both Claimant and her son [REDACTED] had earned income. Claimant confirmed that her son was over age 18. Therefore, his income would be considered in calculating the household's gross earned income. BEM 501 (July 2014), p. 2. Although Claimant disputed the Department's use of gross earned income, the Department is required under Department policy to calculate FAP benefits using gross income received by the household. See BEM 550 (February 2014), p. 1.

The FAP net income budget showed that Claimant's household received total gross earned income of \$2831. The Department testified that Claimant's earned income was based on two biweekly paystubs, one for \$1090.84 paid on December 12, 2014, and the other for \$1065.86 paid on December 26, 2014. The average of the two biweekly paychecks, multiplied by 2.15 in accordance with Department policy, results in Claimant having gross monthly earned income of \$2318. See BEM 505 (July 2014), pp. 7-8). The household's total gross earned income of \$2831 less the \$2318 attributable to Claimant results in \$513 in gross monthly earned income attributable to Claimant's son. The Department testified that in calculating Claimant's son's income from the employer

██████████ it relied on the paystub he submitted dated December 26, 2015, showing earnings of \$239.04 and verification of employment showing biweekly pay of \$8.15 hourly for 20 to 30 hours weekly. Using \$239.04 as Claimant's son's biweekly pay standard, the most advantageous use of the verifications provided to the Department, multiplied by 2.15 in accordance with Department policy, results in gross monthly income of \$513. Therefore, the Department established that it calculated Claimant and her son's gross monthly income in accordance with Department policy.

When the household's gross earned monthly income of \$2831 is reduced by a \$567 earned income deduction (equal to 20% of \$2831), the \$164 standard deduction, and a \$403 excess shelter deduction (based on \$900 in rent and the \$553 mandatory h/u standard), Claimant's net income is \$1697. Based on net income of \$1697 and a FAP group size of four, Claimant is eligible for monthly FAP benefits of \$139, as shown on the budget. RFT 260 (October 2014).

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.

DECISION AND ORDER

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



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

Date Signed: **6/24/2015**

Date Mailed: **6/24/2015**

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]
[REDACTED]
[REDACTED]
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