

**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.: 15-007544
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 15, 2015
County: Wayne-District 18 (Taylor)

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 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her minor daughter, █████, who did not provide any testimony. Participants on behalf of the Department of Health and Human Services (Department) included ████████████████████, Hearings Facilitator.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for April 1, 2015, ongoing?

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. On March 4, 2015, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2015, her FAP benefits would be decreased to \$137 monthly. (Exhibit A)
3. On May 4, 2015, Claimant requested a hearing disputing the Department's actions with respect to 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.

In this case, Claimant requested a hearing disputing the decrease in her FAP benefits for the period of April 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for April 1, 2015, which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit B).

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. The Department considers the gross amount of money earned from Retirement, Survivors, and Disability Insurance (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), p. 28. The Department concluded that Claimant's group had unearned income in the amount of \$1723 which it testified came from monthly RSDI benefits for Claimant in the amount of \$1149 and RSDI benefits for Claimant's daughter in the amount of \$574. Claimant confirmed the amounts relied on by the Department and the Department presented a SOLQ and Bendex Inquiry in support of its testimony. (Exhibit C). 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 did not have any earned income and there was no evidence presented that she had any dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care or child support expenses. The Department testified that Claimant submitted medical expenses in excess of \$35, and the budget shows a medical deduction of \$339, which Claimant did not dispute. Based on her confirmed two-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 monthly rent of \$559 and the \$553 heat and utility (h/u) standard. Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554, pp. 16-19; RFT 255, p. 1. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Claimant was eligible for an excess shelter deduction of \$497. BEM 556, pp. 4-5.

After further review, the Department properly reduced Claimant's total gross income of \$1723 by the \$154 standard deduction, the \$339 medical deduction and the \$497 excess shelter deduction, resulting in monthly net income of \$733. Based on net income of \$733 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$137. BEM 556; RFT 260 (October 2014), p. 10.

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 for April 1, 2015, ongoing. There was some testimony that Claimant's FAP benefits were reduced further after the date in which she requested a hearing. Claimant was informed that she was entitled to request a hearing and have the issue resolved, should she still dispute the decrease.

DECISION AND ORDER

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



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

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

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

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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