

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011593
Issue No.: 3007
Case No.: [REDACTED]
Hearing Date: August 19, 2015
County: SAGINAW

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 August 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself and her spouse, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator [REDACTED]. During this hearing it was determined that there are no Medical Assistance issues remaining; that portion of the hearing request is dismissed.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility on June 18, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On June 18, 2015 the Department sent Claimant a Notice of Case Action (DHS-1605) which stated her benefit group was eligible for \$ [REDACTED] per of Food Assistance Program benefits from May 20, 2015 ongoing.
2. On June 23, 2015, Claimant submitted a hearing request.

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's husband is self-employed. The dispute raised by Claimant regards the self-employment income calculation used for the group's Food Assistance Program eligibility. Claimant submitted her family's 2014 IRS Form 1040 and Form 1040 Schedule C, Profit or Loss From Business. (Pages 9 – 11) No specific business expense receipts were submitted.

The Department started the income calculation by dividing the gross income from Schedule C by 12 ($\$ \text{[REDACTED]} / 12 = \$ \text{[REDACTED]}$). The Department then used expenses of 25% ($\$ \text{[REDACTED]} \times 0.25 = \$ \text{[REDACTED]}$) as provided in Department policy when no expense receipts are submitted. The Department's calculation resulted in monthly self-employment income of $\$ \text{[REDACTED]}$. ($\$ \text{[REDACTED]} - \$ \text{[REDACTED]} = \$ \text{[REDACTED]}$)

Claimant asserts that the total expenses reported from Schedule C should be used. ($\$ \text{[REDACTED]} / 12 = \$ \text{[REDACTED]}$) Using the Schedule C expenses would calculate a monthly self-employment income of $\$ \text{[REDACTED]}$. ($\$ \text{[REDACTED]} - \$ \text{[REDACTED]} = \$ \text{[REDACTED]}$)

Bridges Eligibility Manual (BEM) 550 FAP Income Budgeting, at page 1 states "**Always** calculate income on a calendar month basis to determine eligibility and benefit amounts." The relevant portions of Bridges Eligibility Manual (BEM) 502 Income from Self-Employment state:

DEPARTMENT POLICY

All Types of Assistance (TOA)

This item identifies all of the following:

Guidelines for determining if an individual's income is considered to be from employment or self-employment.

Allowable expenses of producing self-employment income.

Self-employment income types.

COUNTABLE SELF-EMPLOYMENT INCOME

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts. See **Farming Expenses** below.

Example: An individual operates a retail store. Total proceeds for the month are \$3,200. Allowable expenses total \$3,800. The \$600 deficit **cannot** be used to offset any other income.

Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

Note: MAGI related Medicaid uses net income as declared on the federal tax return.

SELF-EMPLOYMENT EXPENSES

Allowed

Allowable expenses include all of the following:

Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.

Interest and principal on loans for equipment, real estate or income-producing property.

Insurance premiums on loans for equipment, real estate and other income-producing property.

Taxes paid on income-producing property.

Transportation costs while on the job (example: fuel).

Purchase of capital equipment.

A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.

Any other identifiable expense of producing self-employment income except those listed below.

Note: Allowable expenses for rental/room and board are different than those listed above; see BEM 504, **ALLOWABLE RENTAL EXPENSES**.

Not Allowed

Do **not** enter any of the following as self-employment expenses in Bridges:

A net loss from a previous period.

Federal, state and local income taxes.

Personal entertainment or other individual business expenses.

Money set aside for retirement.

Depreciation on equipment, real estate or other capital investments.

VERIFICATION SOURCES

All TOA, except Medicaid

Self-Employment Income

Primary source - Income tax return provided:

The client hasn't started or ended self-employment, or received an increase/decrease in income, etc.

The tax return is still representative of future income.

The client filed a tax return.

Secondary source - DHS-431, Self-Employment Statement, with all income receipts to support claimed income.

Third source - DHS-431, Self-Employment Statement, without receipts. When this verification source is used, a Front End Eligibility (FEE) referral is required. Do **not** open the case until the FEE investigation is completed.

Note: If the total countable self-employment income, (total proceeds minus actual expenses or standard deduction) is \$200 or less a month, a FEE referral is **not** required.

Medicaid

Schedule C, Profit or Loss From Business is the primary source of verification. This form is generally used in conjunction with IRS form 1040, 1040NR or 1041. Schedule C is acceptable even if not yet filed with the IRS.

The DHS-431, Self-Employment Statement is not acceptable verification for Medicaid purposes.

Self-Employment Expenses

All Programs

DHS-431, Self-Employment Statement, with receipts.

Medicaid Only

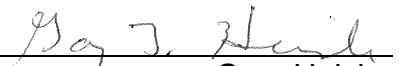
Schedule C, Profit or Loss From Business.

Income calculation standards of the IRS, as used for federal tax purposes, have been adapted as statutory changes to Medical Assistance eligibility. However, a close review of Department policy of allowed self-employment expenses for all other types of assistance shows the same IRS income calculation standards are not in use. BEM 502 clearly requires the DHS-431, Self-Employment Statement, with receipts as the verification source for all types of assistance other than Medical Assistance.

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 determined Claimant's Food Assistance Program eligibility on June 18, 2015.

DECISION AND ORDER

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



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

Date Signed: **8/25/2015**

Date Mailed: **8/25/2015**

GFH / 

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:

