

**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.: 15-009021
Issue No.: 3008
Case No.: ██████████
Hearing Date: August 10, 2015
County: Macomb-District 12

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 August 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) benefits and determine that she was eligible for \$167 monthly, effective May 1, 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. Claimant was an ongoing recipient of FAP benefits.
2. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed.
3. Claimant's FAP benefits were reduced to \$167 effective May 1, 2015. (Exhibit A)
4. On June 1, 2015, Claimant requested a hearing disputing the Department's actions.

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 Department's actions with respect to her FAP benefits. At the hearing, Claimant expressed concerns regarding the Department sending her redetermination forms every three months, when her FAP case is not one that requires a three month review. The Department acknowledged that Claimant's case is not one with unstable circumstances and should not be assigned a three month benefit period, but rather it is assigned a twelve month benefit period. BAM 210 (April 2015), pp. 1-2. The Department stated that due to a glitch in the Bridges system, a redetermination is being automatically generated to Claimant every three months. The Department testified that Bridges is also not sending Claimant timely notice of actions being taken on her case, including the benefit decrease effective May 1, 2015. The Department further stated that a help desk ticket ([REDACTED]) was requested to resolve the issue and that as of the hearing date, the ticket is still pending and had not been resolved.

Claimant raised additional concerns at the hearing regarding the reduction of her FAP benefit to \$167 effective May 1, 2015. At the hearing, the Department presented the FAP EDG Net Income Results Budget 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 determined that Claimant had total unearned income in the amount of \$1415 which it testified consisted of RSDI and child support. 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. Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned

income. BEM 503, pp. 6-9. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, pp. 3-4.

The Department concluded that Claimant had unearned income from RSDI in the amount of \$1062 which consisted of Claimant's monthly RSDI benefits of \$892 and \$85 in RSDI benefits for each of her two children. Claimant confirmed the amounts relied on by the Department and the Department presented the SOLQ in support of its testimony. (Exhibit C). The Department testified that based on the three month average, it determined that Claimant had unearned income from child support in the amount of \$353. A child support search was presented in support of the Department's testimony. (Exhibit D). A further review of the evidence presented and in consideration of the prospective budgeting policy with respect to child support, the Department properly determined that Claimant's group had unearned income in the amount of \$1415. BEM 505 (July 2014), pp. 3-8.

The deductions to income on the budget were also reviewed. Claimant is a senior/disabled/veteran (SDV) member of the 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, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on the confirmed three person eligible 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 \$192 and the \$553 heat and utility (h/u) standard. 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 \$115. BEM 556, pp. 4-5.

After further review, the Department properly reduced Claimant's total gross income of \$1415 by the \$154 standard deduction and the \$115 excess shelter deduction, resulting in monthly net income of \$1146. Based on net income of \$1146 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$167. BEM 556; RFT 260 (October 2014), p. 15.

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 the amount of Claimant's FAP benefits effective May 1, 2015.

Claimant raised further concerns at the hearing regarding a case closure effective July 31, 2015, resulting from an improper redetermination. Claimant was informed that because the case closure was considered to be a subsequent action that did not occur until after the date of her June 1, 2015, hearing request, it would not be addressed at the hearing held on August 10, 2015. Claimant was informed that she was entitled to request a hearing to have the issue of her FAP case closure resolved.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the calculation of Claimant's FAP benefits and **REVERSED IN PART** with respect to the improper processing of Claimant's FAP case and redeterminations.

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. Resolve the pending Help Desk Ticket ([REDACTED]) and cease sending Claimant redeterminations every three months.



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

Date Signed: **8/12/2015**

Date Mailed: **8/12/2015**

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]
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