

**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.: 15-010888
Issue No.: 3001
Case No.: ██████████
Hearing Date: August 13, 2015
County: Wayne-District 55

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 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case on the basis that his income exceeded the limit for FAP purposes?

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. (Exhibit 1, pp. 4-8)
3. Claimant's FAP benefits were terminated effective June 1, 2015. (Exhibit 1, p.23)
4. On June 19, 2015, the Department sent Claimant a Notice of Case Action informing him that effective July 1, 2015, his FAP case would be closed because his net income exceeded the limit for FAP. (Exhibit 1, pp. 24-26)
5. On June 29, 2015, Claimant requested a hearing disputing the Department's actions with respect to the closure of his FAP case.

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 closure of his FAP case based on excess income. Although the Notice of Case Action references a case closure effective July 1, 2015, Claimant and the Department stated that the case actually closed effective June 1, 2015, after a May 2015 redetermination was completed. At the hearing, the FAP EDG Net Income Results Budget was reviewed to determine if the Department properly concluded that Claimant's group was ineligible for FAP benefits based on excess income. (Exhibit 1, pp. 19-21).

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 determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8.

With respect to unearned income, the Department considers the gross amount of money earned from Supplemental Security Income (SSI) and unemployment benefits in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28, 31-32.

The Department concluded that Claimant had earned income in the amount of \$777 which it testified came from Claimant's employment. The Department considered Claimant's biweekly paystubs that were submitted with his redetermination, specifically,

\$365.19 paid on May 3, 2015; \$353.17 paid on May 17, 2015; and \$366.85 paid on May 31, 2015. Claimant confirmed that the amounts relied on by the Department were accurate and the paystubs were presented for review. (Exhibit 1, pp. 9-11). After further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Claimant's earned income.

The Department concluded that Claimant's group had unearned income of \$1781 which it testified consisted of \$727.29 in SSI benefits for Claimant's wife and \$484 in biweekly unemployment benefits for Claimant. The Department presented an SOLQ in support of its testimony and Claimant confirmed the amounts relied on by the Department. (Exhibit 1, pp.15-17). Although Claimant confirmed receiving biweekly underemployment benefits in the amount of \$484 for the month of May 2015 and an unemployment compensation search was presented by the Department, upon further review and in consideration of the above referenced budgeting policies, the Department did not properly calculate Claimant's unearned income as the total unearned income from SSI and unemployment benefits does not equal \$1781 as determined by the Department.

The deductions to income on the budget were also reviewed. Claimant's wife 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, the Department properly determined that the 20% earned income deduction was \$156 and there was no evidence presented that Claimant's group 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 the confirmed four person group size, the Department properly applied the \$164 standard deduction. RFT 255 (October 2014), p. 1. The Department properly considered the \$553 heat and utility standard in calculating Claimant's excess shelter deduction and determined that Claimant's housing expenses were \$56.96, as Claimant is responsible for annual property taxes in the amount of \$683.49. (Exhibit 1, p. 18).

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 error in the calculation of Claimant's total unearned income, the Department did not act in

accordance with Department policy when it closed Claimant's FAP case effective June 1, 2015, based on excess income.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's FAP case effective June 1, 2015;
2. Recalculate Claimant's FAP budget for June 1, 2015, ongoing; and
3. Issue FAP supplements to Claimant for any FAP benefits that he was entitled to receive but did not from June 1, 2015, ongoing, in accordance with Department policy; and
4. Notify Claimant in writing of its decision.



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

Date Signed: **8/17/2015**

Date Mailed: **8/17/2015**

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]
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