

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

IN THE MATTER OF:



Reg. No.: 15-013947
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 21, 2015
County: WAYNE-DISTRICT 49

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 September 21, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (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. The Claimant was an ongoing FAP recipient. The Department reduced the Claimant's FAP benefits after Claimant completed a Mid Certification Contact Report when the Claimant reported that he had begun to receive RSDI. The Claimant also noted that he had quit work at that time. The Mid Certification Contact was submitted on [REDACTED]. Exhibit 1a and Exhibit 1
2. At the hearing, the Claimant requested that his withdrawal entered at a prehearing conference be withdrawn, as he believed the Department had concluded improperly that he had not reported his previous employment. The withdrawal request was denied. As there was no basis for the withdrawal of the withdrawal to be granted.

3. A Notice of Case Action was issued by the Department on [REDACTED], at which time the Department reduced the Claimant's FAP benefits to \$47 as of [REDACTED] Exhibit 4
4. The Claimant receives RSDI in the amount of \$889. The Claimant pays rent of \$58.67, pays for heating, and thus is eligible for the mandatory heat and electricity allowance of \$553. Exhibit 1 and 1a
5. The Claimant filed a timely hearing request dated [REDACTED], protesting the amount of his FAP benefits and seeking to withdraw his withdrawal of a prior 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.

In this case, the Claimant requested a hearing regarding the withdrawal of a prior hearing request regarding his food assistance reduction. The Claimant's request to withdraw the withdrawal was denied because at the time it was signed by him, there was no basis presented to approve the withdrawal of the withdrawal. However, the Claimant may request a hearing at any time regarding the amount of his food assistance benefits. Therefore, the current hearing request was also treated as a request to determine if the FAP benefits were properly reduced.

At the hearing, the Claimant's FAP budget was reviewed. The Claimant and the Department agreed that the Claimant was receiving RSDI from Social Security in the amount of \$889 monthly. The Claimant also pays rent in the amount of \$58.67 and was granted the mandatory heat and utility standard of \$553. RFT 255, (October 1, 2015) p.1; BEM 554 (July 1, 2015). All of these numbers were used when calculating the Claimant's benefits. Exhibit 1. In calculating the prior FAP benefits, the Department failed to include earned income (which the Claimant reported ended on his Semi Annual Contact Report). As no income was included by the Department, the Claimant received a higher FAP allotment amount. Exhibit 1a and Exhibit 4

A review of the FAP budget indicates that the Department included the correct income, rent and shelter allowance as well as the standard deduction of \$154 given to all FAP groups with one to three members in the group. RFT 255, (October 1, 2015) p. 1. The Claimant's adjusted gross income was determined by deducting the standard deduction of \$154 from the unearned income of \$889 which resulted in adjusted gross income of \$735. ($\$889 - \$154 = \735).

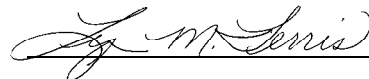
FAP recipients are entitled to a shelter deduction which is based upon the verified housing expenses and adjusted gross income. The Claimant's rent and utility allowance totaled \$611.67 ($\58.57 rent + $\$553$ heat allowance = $\$611.67$). To determine the net income upon which FAP benefits are based, one half the adjusted gross income ($\$735 \div 2 = \367.50) is deducted from the total housing expense to get the excess shelter deduction, which is \$244 ($\$611 - \$367.50 = \244). The shelter expense is then deducted from the adjusted gross income of \$735 to get FAP net income, which is \$490 ($\$735 - \$244 = \490). Based upon the FAP issuance tables found in RFT 260, a FAP group of one member with net income of \$490 is entitled to \$47 per month in FAP benefits. BEM 554 p6-7; RFT 260 (October 1, 2015) p. 7

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 reduced the Claimant's FAP benefits. The Administrative Law Judge also finds that the withdrawal entered at the pre hearing conference cannot be withdrawn as it was properly executed by the Claimant.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/25/2015**

Date Mailed: **9/25/2015**

LMF / hw

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:

