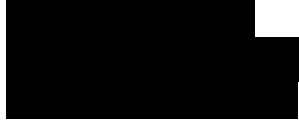


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-001696
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: March 16, 2015
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due an in-person hearing was held on March 16, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], supervisor, and [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. Claimant was a household member, along with her adult son.
3. On an unspecified date in 1/2015, Claimant reported to DHS that her adult daughter moved into her home.
4. As of 1/2015, Claimant received \$790/month in gross Retirement, Survivors, Disability Insurance (RSDI).

5. As of 1/2015, Claimant's son received \$659.70 in Supplemental Security Income (SSI) benefits.
6. As of 1/2015, Claimant had no monthly medical expenses.
7. On [REDACTED], DHS mailed Claimant a Notice of Case Action (Exhibits 1-4) informing Claimant that she was eligible for \$104/month in FAP benefits, in part, based on a 2-person FAP group, household income of \$1,551, and \$0/month in medical expenses.
8. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. DHS (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. DHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant's hearing request noted that special arrangements were required for participation and/or attendance for the hearing; specifically, "disability" was noted. Claimant was asked what special arrangements were required due to her disability. Claimant was unable to state what special arrangements that her disability justified. The hearing was uneventfully conducted without providing any special arrangements to Claimant.

It should be noted that back-to-back Claimant FAP eligibility hearings were conducted. Some relevant evidence was provided in the first hearing (registration # 14-018759), but not during the second hearing. The analysis will factor relevant evidence from both hearings.

Claimant's hearing requested stated that Claimant disputed her FAP eligibility. Presented evidence suggested that the notice issued most immediately before Claimant's hearing request was dated [REDACTED] (see Exhibits 1-4). The notice informed Claimant of a FAP benefit eligibility of \$104, effective 2/2015. Claimant received \$164 in FAP benefits for 1/2015. Presumably, Claimant's hearing request was submitted to dispute her 2/2015 FAP eligibility.

FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size

and senior/disability/disabled veteran status. Budget factors in dispute concerned group size, income, and medical expenses.

DHS determined Claimant's FAP eligibility based on a group size of 2 persons. Claimant testified that she has always lived with her 2 children. Claimant testified that there was no way that she ever reported to DHS that she did not live with her children. DHS responded by finding two of Claimant's State Emergency Relief (SER) applications from 2014. Claimant did not list her daughter as a household member on either SER application. DHS also presented undisputed testimony that Claimant's adult daughter received FAP benefits separately from Claimant as of 12/2014.

Claimant's first hearing concerned Claimant's FAP eligibility from 1/2015 based on a DHS decision from 12/2014. Based on what Claimant reported to DHS in 12/2014, it was found that DHS properly determined Claimant's FAP eligibility for 1/2015. Presented evidence justifies a different outcome for Claimant's 2/2015 FAP eligibility.

It was not disputed that Claimant submitted a SER application to DHS in 1/2015. DHS conceded that Claimant's SER application listed Claimant, and her 2 adult children as household members.

Claimant's SER application is persuasive evidence that Claimant reported a change in household members to DHS in 1/2015. A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 550 (2/2014), p. 4.

DHS conceded that Claimant's adult daughter's received FAP benefits separately from her mother through 12/2014. This consideration is consistent with finding that Claimant's daughter should have been factored into Claimant's FAP eligibility for 2/2015. Based on presented evidence, it is found that DHS failed to factor Claimant's daughter as a FAP group member.

It was not disputed that Claimant and her adult son received Social Security Administration (SSA) benefits. DHS factored a household unearned income of \$1,551 (see Exhibit 2). Claimant alleged that she and her son's combined SSA income was less than the amount budgeted by DHS.

DHS presented an SOLQ for Claimant (Exhibits 5-7). Claimant's SOLQ listed a "net monthly benefit if payable" amount of \$790 in RSDI.

Claimant testified that her RSDI was reduced to \$750 due to garnishment for a student loan. Claimant presented a letter from the Department of Treasury dated [REDACTED] (Exhibit A1). The letter informed Claimant that she owed a delinquent debt with the Department of Education. The letter stated that garnishments could be up to 15% of Claimant's income, but that Claimant's income could not be reduced beyond \$750/month.

Claimant's evidence had multiple problems. First, Claimant's letter from the U.S. Treasury provided no specifics of garnishment. Though it is possible that Claimant's RSDI was reduced to \$750 due to garnishment, Claimant's letter only verified the possibility of garnishment, not the reality of garnishment. Secondly, Claimant's testimony will not be accepted as persuasive evidence because of her lack of credibility concerning her daughter's residency. Thirdly, and most importantly, even if Claimant's RSDI was verified to be reduced to repay student loans, DHS policy still requires that DHS budget the gross RSDI.

For all programs, Bridges (the DHS database) counts the gross benefit amount as unearned income. BEM 503 (7/2014), p. 28. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 (7/2014), p. 4. It is found that Claimant's FAP eligibility should be based on \$790/month in RSDI.

DHS presented an SOLQ for Claimant's son (Exhibits 8-10). An SOLQ is an acceptable verification of a person's Social Security Administration income (see BEM 503). Claimant's son's SOLQ listed a "SSI gross payable amount of \$659.70. The SOLQ also indicated that Claimant's son's SSI was reduced to \$659.70 because of a \$73.30 recoupment.

Bridges (the DHS database) counts the gross amount of current SSA-issued SSI as unearned income. BEM 503 (7/2014), p. 32. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (1/2014), p. 5. These amounts are excluded as income. *Id.*

DHS provided no explanation how they calculated Claimant's total household income to be \$1,551. Presumably, DHS budgeted the additional \$73.30 in SSI as Claimant's son's income. Budgeting \$73.30 in SSI that SSA keeps for recoupment is improper. It is found that DHS should have budgeted Claimant's son's federally-issued SSI to be \$659.70.

Adding Claimant's RSDI and her son's SSI results in \$1449.70 in monthly income. It is found that DHS erred in budgeting \$1551 in monthly income to determine Claimant's FAP eligibility for 2/2015.

DHS factors a client's medical expenses in determining a client's FAP eligibility. DHS budgeted \$0 for Claimant's medical expenses. Claimant alleged that her monthly medical expenses were approximately \$100.

Claimant's testimony was dubious when factoring that she was eligible for Medicaid and Medicare. Typically, recipients of Medicare and Medicaid have very few out-of-pocket medical expenses. Claimant presented no evidence of out-of-pocket medical expenses.

DHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 (10/2014), p. 8. DHS is to base the estimate, in part, based on verified allowable medical expenses. *Id.*

Based on presented evidence, it is found that Claimant failed to verify any medical expenses. Accordingly, it is found that DHS properly budgeted \$0 medical expenses in Claimant's FAP determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility, effective 2/2015. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective 2/2015, subject to the following findings:
 - a. Claimant's countable RSDI is \$790/month;
 - b. Claimant's son's countable federally-issued SSI is \$659.70/month;
 - c. Claimant's household includes her adult daughter; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/19/2015**

Date Mailed: **3/19/2015**

CG / 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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

