

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003600
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 13, 2015
County: MACOMB-DISTRICT 20
(WARREN)

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. After due notice, a telephone hearing was held on April 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant's Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly calculate and reduce 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 recipient of FAP benefits.
2. On December 6, 2014 the Department sent the Claimant a Notice of Case Action which reduced the Claimant's FAP benefits effective January 1, 2015 to \$23.
3. The Claimant pays rent of \$192 and pays for electricity and has a telephone.
4. The Claimant received RSDI income and SSI income for a total \$752. The Claimant also receives a quarterly supplement from the Department in the amount of \$14 monthly.

5. The Claimant's AHR requested a hearing on March 3, 2015 protesting the FAP reduction as incorrect as nothing had changed.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the Claimant's AHR disputed the amount of the Claimant's FAP benefits and their reduction. At the hearing, the Department presented the FAP EDG Net Income Results Budget for January 1, 2015, which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$23 in monthly FAP benefits. (Exhibits B and C.)

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248 (January 2015), p. 1.

The Department concluded that Claimant had unearned income of \$767 which it testified came from \$660 in RSDI, \$92 in SSI and \$14 in SSP benefits for Claimant. Although the Department did not present a SOLQ in support of its testimony, Claimant's AHR confirmed that Claimant receives these amounts and they were correct. Therefore, the Department properly calculated Claimant's gross income. Technically the gross income added together is \$766 but the difference is de minimis and would not affect the FAP benefit amount.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of his FAP group and 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 he had any dependent care, child support, or medical expenses over \$35. The Claimant's AHR was specifically asked if he paid Medicare Part B premiums and it was determined he did not. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

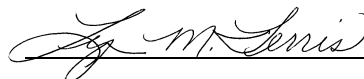
In calculating Claimant's excess shelter deduction, the Department considered Claimant's \$192 monthly rental/housing expenses and \$34 for the telephone standard and a \$124 electric standard found in RFT 255 (October 1, 2014) p. 1. (Exhibit C.) The Department explained that Claimant was no longer eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction because he does not pay for heat. See BEM 554, pp. 16-19. 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 \$44. BEM 556, pp. 4-5; RFT 255, p. 1.

After further review, the Department properly reduced Claimant's gross income of \$767 by the \$154 standard deduction, resulting in adjusted gross income of \$613. In determining monthly net income of \$569, the shelter expenses are deducted from 50% of the adjusted gross income. ($\$350 - \$306 = \$44$) The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income. ($\$613 - \$44 = \$569$). Based on net income of \$569 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$23. BEM 556; RFT 260 (October 2014), p. 8.

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 Claimant's FAP benefits for January 1, 2015, ongoing.

DECISION AND ORDER

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



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

Date Signed: **4/14/2015**

Date Mailed: **4/14/2015**

LMF / cl

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

