

**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.: 15-003605
Issue No.: 3008
Case No.: ██████████
Hearing Date: April 13, 2015
County: Wayne-District 15 (Greydale)

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. After due notice, a telephone hearing was held on April 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (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. Claimant was an ongoing recipient of FAP benefits.
2. On or around February 20, 2015, Claimant submitted a New Hire Form (DHS 4635) in connection with his new employment with the ██████████
██████████.
3. On or around March 4, 2015, the Department notified Claimant that his FAP benefits would be decreased to \$93 effective April 1, 2015.
4. On March 4, 2015, Claimant submitted a hearing request disputing the amount of his FAP benefits.

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.

Claimant requested a hearing disputing the decrease in his FAP benefits for the period of April 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for April 1, 2015, which was reviewed to determine if the Department properly concluded that Claimant was eligible to receive \$93 in monthly FAP benefits. (Exhibit A).

In calculating a client's FAP benefits, 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.

The Department concluded that Claimant had earned income of \$613 which it testified came from Claimant's employment. The Department stated that it relied on the paystubs provided by the Claimant; however, the Department did not present the paystubs for review at the hearing and could not identify which exact income amounts were relied on in calculating Claimant's earned income for FAP purposes. Claimant stated that he is paid every two weeks and that the paystubs he provided to the Department totaled \$384 monthly. Thus, the Department failed to establish that it properly calculated the Claimant's earned income.

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's group was eligible for an earned income deduction equal to 20% of any earned income, which the Department determined was \$123, however, because the Department improperly calculated Claimant's earned income, the earned income deduction reflected on the budget is also incorrect. There was no evidence presented that Claimant 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 his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

The Department determined that Claimant was eligible for \$0 for the excess shelter deduction. The Department initially stated that Claimant was not responsible for rent or any utilities but later stated that it considered \$124 for a non-heat electric standard, as well as the \$34 telephone standard. The Department did not present an excess shelter deduction budget for review, so the Department's testimony that the correct standards were used was unsupported.

Claimant testified that he was now responsible for a \$250 rental expense; however, Claimant confirmed that he did not provide the Department with any verification or notification of his rental expense prior to requesting a hearing. Claimant was informed that provided he submits verification of his housing costs, the Department would consider them towards the excess shelter deduction and future budgets.

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 errors in the calculation of Claimant's earned income and excess shelter deduction, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$93 for April 1, 2015, ongoing.

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. Recalculate Claimant's FAP budget for April 1, 2015, ongoing; and
2. Issue FAP supplements to Claimant from April 1, 2015, ongoing, in accordance with Department policy.



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

Date Signed: **4/17/2015**

Date Mailed: **4/17/2015**

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 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:

[REDACTED]
[REDACTED]
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