

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003608
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department included [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's monthly allotment of 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of two.
2. The Claimant receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED].
3. The Claimant receives monthly unearned income from direct spousal support in the gross monthly amount of \$ [REDACTED].
4. The Claimant's daughter receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].
5. The Claimant has monthly housing expenses of \$ [REDACTED].
6. On February 16, 2015, the Department notified the Claimant that it would reduce her monthly allotment of FAP benefits to \$16.
7. On March 3, 2015, the Department received the Claimant's request for a hearing protesting her monthly allotment of FAP benefits.

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 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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

The Claimant is an ongoing FAP recipient as a group of two and her daughter has been found to be disabled. The Claimant receives a total monthly income of \$ [REDACTED] which was determined by taking the total of her monthly earned income of \$ [REDACTED] her monthly direct spousal support of \$ [REDACTED] and her daughters SSI benefits in the monthly amount of \$ [REDACTED]. The Claimant's adjusted gross income of \$ [REDACTED] was determined by reducing her total monthly income by a 20% earned income credit deducted from her wages. The Claimant's daughter would be entitled to a deduction for medical expenses of \$ [REDACTED] but the Claimant testified that her medical expenses are being covered. The Claimant is entitled to a monthly excess shelter deduction of \$ [REDACTED] which was determined by adding her \$ [REDACTED] monthly home insurance expenses to her \$ [REDACTED] monthly property taxes expense and the \$ [REDACTED] standard heat and utility deduction, and then subtracting 50% of her adjusted gross income. The Claimant's monthly insurance and property tax expenses were determined by dividing her annual expenses by 12 months.

The Claimant's net income of \$ [REDACTED] was determined by subtracting her excess shelter deduction from her adjusted gross income. A group of two with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of FAP benefits.

The primary cause of the reduction of the Claimant's FAP benefits was the reduction of her monthly housing costs. The Claimant was previously paying a monthly mortgage payment, but she no longer has this expense.

The Claimant argued that a portion of her daughter's SSI benefits is used to pay for the benefit group's housing expenses and that she collects a monthly rent from her daughter's SSI benefits.

The Department determined that the Claimant and her daughter have monthly housing expenses that are shared and included in their FAP eligibility determination. If monthly expenses for rent paid by the daughter to the Claimant were included in the FAP budget, that that rent would have to be included as income to the mother. This Administrative Law Judge finds that the Department applied the group's housing expenses in a manner most beneficial to the group, and is a proper application of Department policy.

The Claimant argued that the Department failed to consider other expenses such a gasoline.

Department policy determines what expenses are used to determine net income for the purposes of determining eligibility for FAP benefits. This Administrative Law Judge finds that the Department properly applied all allowable expenses allowed by policy.

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 determined the Claimant's monthly allotment of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/20/2015**

Date Mailed: **4/20/2015**

KS/las

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:

