

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

IN THE MATTER OF:



Reg. No.: 15-005273
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: May 7, 2015
County: Wayne (55)

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 notice, a telephone hearing was held on May 7, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], specialist.

ISSUE

The issue is whether DHHS 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 the only member of her FAP benefit group.
3. Claimant's monthly income was \$767/month.
4. Claimant was responsible for paying \$180/month for housing.
5. Claimant was responsible for paying electricity and telephone.
6. On [REDACTED], DHHS mailed Claimant a Notice of Case Action (Exhibits 1) informing Claimant that she was eligible for \$19/month in FAP benefits, in part,

based on unearned income of \$767, \$180 in housing expenses, and responsibility for an electricity and telephone obligation.

7. On [REDACTED], Claimant requested a hearing to dispute her FAP eligibility from the previous 2 years.

CONCLUSIONS OF LAW

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. DHHS (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. DHHS 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 a dispute concerning FAP eligibility. An attached letter expressed Claimant's dissatisfaction with her FAP eligibility as far back as 2013. Claimant testified that she wanted a hearing to dispute her FAP eligibility for the last 1-2 years.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (1/2015), p. 6. For FAP only, the client or AHR may request a hearing disputing the current level of benefits at any time within the benefit period. *Id.*

Claimant's current level of FAP benefits is \$19/month. DHHS established that Claimant received \$19/month since January 2015. Claimant is entitled to a hearing to dispute her FAP eligibility since January 2015. Claimant's hearing request will be dismissed concerning her dispute of FAP eligibility for months before January 2015 due to Claimant's failure to request a hearing within 90 days after any DHHS written notice mailings. The analysis will proceed to determine Claimant's FAP eligibility since January 2015. BEM 556 outlines how DHHS is to calculate FAP eligibility.

Claimant initially testified that her monthly income was \$730. Claimant then testified that she received \$227 in SSI and \$526 in RSDI. Claimant then agreed that she also received an average of \$14/month in state-issued SSI. Adding Claimant's different incomes results in a total monthly income of \$767.

DHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups

containing SDV members, DHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant was disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant conceded that she had no day care, medical, or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$154. RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$613.

It was not disputed that Claimant's rent was \$180/month. DHHS gives standard utility credits depending on the utility for which a client is responsible to pay (see RFT 255). It was not disputed that Claimant was responsible for paying electricity (\$124 credit) and telephone (\$34 credit). Claimant's total shelter credit is found to be \$338.

DHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be \$32.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant's FAP benefit group's net income is found to be \$581. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$19, the same amount calculated by DHHS.

Claimant contended that her FAP eligibility should be higher because she is a diabetic and her food costs tends to be more than those on a non-diabetic diet. Claimant's testimony has no relevance to a FAP determination. It is found that DHHS properly determined Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing concerning FAP eligibility from 2013 through December 2014. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly determined Claimant's FAP eligibility, effective January 2015, as \$19/month. The actions taken by DHHS are **AFFIRMED**.



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

Date Signed: **5/13/2015**

Date Mailed: **5/13/2015**

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 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:

