

**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.: 15-006851
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 04, 2015
County: Wayne-District 19

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

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 April 4, 2015, the Department sent Claimant a Notice of Case Action informing him that effective May 1, 2015, his FAP benefits would be decreased to \$127 monthly. (Exhibit A)
3. On April 28, 2015, Claimant submitted a hearing request disputing the decrease in the amount of his 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 and Nutrition Act of 2008, 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 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.

Claimant requested a hearing disputing the decrease in his FAP benefits for the period of May 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for May 1, 2015, which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. Although the April 4, 2015, Notice of Case Action informs Claimant that his benefits were being decreased to \$127, the FAP EDG Net Income Results Budget reflects a net benefit amount of \$129 for the May 2015 benefit period (Exhibit C).

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. With respect to unearned income, 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. 28, 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 earned income in the amount of \$2191, which it testified came from Claimant's wife's employment. The Department stated that it relied on the paystubs previously provided and specifically considered Claimant's wife

biweekly pay of \$1019.25. Claimant confirmed that the amounts relied on by the Department were accurate. After further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Claimant's earned income. The Department concluded that Claimant had unearned income of \$606 which it testified consisted of \$592.79 in SSI benefits for the month of May 2015 and \$14 in SSP benefits. The Department presented a SOLQ in support of its testimony and Claimant confirmed the amounts relied on by the Department (Exhibit B). The Department testified that although the amount of Claimant's monthly SSI benefit changes based on his wife's monthly earnings, according to the SOLQ the actual amount received for May 2015 was \$592.79. Therefore, the Department properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. Claimant is a senior/disabled/veteran (SDV) member of the FAP 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 properly determined was \$439. 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 four-person group size, the Department properly applied the \$164 standard deduction. RFT 255 (October 2014), p. 1. In calculating the \$461 excess shelter deduction, the Department testified that it considered Claimant's confirmed housing expenses in the amount of \$1005.40 and the \$553 heat and utility standard, as Claimant is responsible for heating and utility expenses.

After further review, the Department properly reduced Claimant's total income of \$2797 by the \$439 earned income deduction, \$164 standard deduction, and the \$461 excess shelter deduction, resulting in monthly net income of \$1733. Based on net income of \$1733 and a FAP group size of four, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$129. BEM 556; RFT 260 (October 2014), p. 22.

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 May 2015.

DECISION AND ORDER

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



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

Date Signed: **6/10/2015**

Date Mailed: **6/10/2015**

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 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:

[REDACTED]
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