

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 15-010000
Issue No: 3008
[REDACTED]
Hearing Date: August 19, 2015
Washtenaw

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, an in-person hearing was held on August 19, 2015. Claimant appeared and testified. [REDACTED], Assistance Payment Worker and [REDACTED], Family Independence Manager, appeared and testified on behalf of the Department of Health and Human Services (the Department).

This hearing was originally heard by Administrative Law Judge Vickie Armstrong. Judge Armstrong is currently on leave from the Michigan Administrative Hearings System. This hearing decision was completed by Administrative Law Judge Landis Y. Lain after listening to the audio hearings record and considering the entire written record.

State's Exhibits 1-14 were admitted as evidence without objection.

ISSUES

Did the Department of Health and Human Services (Department) properly reduce the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant is a FAP benefit recipient.
2. Claimant was receiving \$ [REDACTED] per month in FAP benefits.
3. Claimant's RSDI income increased January 1, 2015.

4. Claimant reported an increase in shelter and utility obligation which were budgeted.
5. The department caseworker generated a budget for FAP which resulted in a reduction of Claimant's FAP benefits.
6. On June 12, 2015, the Department sent Claimant Notice that her FAP benefits would be reduced from \$ [REDACTED] to \$ [REDACTED] per month.
7. On June 12, 2015, Claimant filed a request for a hearing to contest the Department's negative action.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 255, page 1.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. A standard deduction from income of \$█ is allowed for each household for unearned income. A standard deduction for earned income in the amount of \$█ is allowed for each household. Certain non-reimbursable medical expenses above \$█ a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$█ for non-senior/disabled/veteran households. BEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

Bridges Eligibility Manual (BEM) 550 (2015), provides that Department's worker is to use **only** available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing.

BEM 505 provides that the Department's worker is to determine budgetable income using countable, available income for the benefit month being processed.

Past Months

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate; see Standard monthly amount in this item.

Exception: Prospective income **may** be used for past month determinations when all of the following are true:

- Income verification was requested and received.
- Payments were received by the client after verifications were submitted.
- There are no known changes in the income being prospected.

**Current and
Future
Months**

Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible.

To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).
- The day(s) of the week paid.
- The date(s) paid.
- The gross income amount received or expected to be received on each pay date.

In the instant case, the Claimant receives \$ [REDACTED] in RSDI unearned income per month. She provided pay stubs which indicated that she was receiving \$ [REDACTED] every two weeks. Bridges calculation adds the monthly earned income and multiplies it by 2.15 which equals \$ [REDACTED] in gross monthly income. Claimant was then given a \$ [REDACTED] earned income deduction and a \$ [REDACTED] unearned income deduction for a total of \$ [REDACTED] in adjusted gross monthly income. Appellant was then given a \$ [REDACTED] housing expense and a \$ [REDACTED] heat and utility standard for a total shelter amount of \$ [REDACTED]. The Department gave Claimant a 50% Adjusted Gross Income deduction which equals \$ [REDACTED] in Shelter amount - \$ [REDACTED] Adjusted Gross Income = \$ [REDACTED] in Adjusted Excess Shelter Deduction. \$ [REDACTED] in Adjusted Gross Income - \$ [REDACTED] in Adjusted Shelter Deduction = \$ [REDACTED] in monthly net income. 30% of Net Income equals \$ [REDACTED]. The maximum FAP benefit for a one person home is \$ [REDACTED]. \$ [REDACTED] maximum FAP benefit - \$ [REDACTED] (30% Net Income) = \$ [REDACTED] in Monthly FAP Benefit Amount. A one person household who receives \$ [REDACTED] in net income is entitled to receive \$ [REDACTED] in FAP benefits.

The claimant testified that she can't afford food for the entire month without a food assistance increase. Her FAP benefits have been reduced on two occasions.

The claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

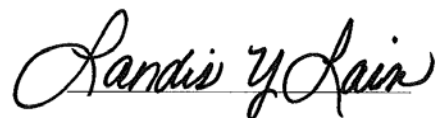
Unfortunately, the Administrative Law Judge has no equity powers. The department is required to follow a formula set by the federal government and cannot deviate from that formula in determining eligibility for FAP benefits.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with Department policy when it reduced Claimant's FAP benefits from \$ [REDACTED] to \$ [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly calculated claimant's income based upon the information they had at the time and properly reduced the claimant's FAP benefits to \$ [REDACTED] per month.

Accordingly, the department's determination is AFFIRMED.



Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: August 26, 2015

Date Mailed: August 26, 2015

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

LYL/las

cc:

