

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-019238
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 21, 2016
County: KENT

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, telephone hearing was held on January 21, 2016, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's adult daughter [REDACTED] as authorized hearings representative and translator, and [REDACTED] (Assistance Payments Worker) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Family Independence Manager).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of two.
2. On September 14, 2015, the Department received the Claimant's completed Mid-Certification Contact Notice (DHS-2240-A) where the Claimant had reported no changes to his circumstances.
3. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].
4. The Claimant's spouse receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED].

5. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
6. On October 5, 2015, the Department notified the Claimant that he was approved for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.
7. On October 16, 2015, the Department received the Claimant's request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (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.

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, 2015).

The Claimant was an ongoing FAP recipient on September 14, 2015, when he reported to the Department that there had been no changes to his circumstances on a Mid-Certification Contact Notice (DHS-2240-A) form. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. The Claimant and his spouse each receive monthly Supplemental Security Income (SSI) in the gross monthly amounts of \$ [REDACTED]. Therefore, the FAP group has a total monthly income of \$ [REDACTED].

The Claimant is considered a senior/disabled/veteran FAP group and is entitled to a deduction from his income for medical expenses. While processing the Claimant's Mid-

Certification Contact Notice, the Department discovered that one-time medical expenses had been treated as ongoing expenses, but that the Claimant was not reporting any current ongoing or current one-time medical expenses.

The Claimant's adjusted gross income of \$986 was determined by reducing the group's total income by the \$ standard deduction. The Claimant is entitled to a \$ excess shelter deduction that was determined by adding his monthly \$ housing expenses to the flat \$ heat and utility deduction, then subtracting 50% of his adjusted gross income.

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

The Claimant disputed that he received a cost of living allowance from the Social Security Administration but failed to produce evidence that the Department failed to properly determine his monthly income.

The Claimant testified that he pays a co-payment for prescriptions but acknowledged that verification of this expense was not submitted to the Department.

The Claimant argued that the Department failed to consider his utility expenses, but the Department granted the flat heat and utility deduction. The Claimant is not entitled to a deduction for actual utility expenses and FAP recipients that receive the heat and utility deduction are not entitled to a deduction for other utility expense as directed by Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014).

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 Food Assistance Program (FAP) eligibility as of November 1, 2015.

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 Mailed: **1/25/2016**

KS/nr

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:

