

**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.: 15-020423
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 05, 2016
County: INGHAM

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 05, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (formerly known as [REDACTED]) [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

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.
2. The Department sent the Claimant a Semi-Annual Contact Report (DHS-1046) with a due date of October 1, 2015, which she returned in a timely manner.
3. The Claimant has a monthly housing obligation of \$ [REDACTED]
4. A member of the Claimant's benefit group receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED]
5. The Claimant receives monthly unearned income from child support payments in the gross monthly amount of \$ [REDACTED]

6. On October 23, 2015, the Department notified the Claimant that her monthly Food Assistance Program (FAP) benefits would be reduced to \$ [REDACTED] effective November 1, 2015.
7. On October 29, 2015, the Department received the Claimant's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits that she is receiving.

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).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

The Department will use the average of child support payments received in the past three calendar months. BEM 505, p 3.

The Claimant is an ongoing FAP recipient and on October 23, 2015, the Department notified her that it would reduce her monthly allotment of FAP benefits to \$ [REDACTED] effective November 1, 2015.

A member of the Claimant's benefit group receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] which was determined by multiplying the weekly average of his income from the previous 30 days (\$ [REDACTED] \$ [REDACTED] \$ [REDACTED] by the 4.3 conversion factor as required by BEM 505. This earned income was verified from paycheck stubs supplied by the Claimant.

The Claimant receives unearned income from child support payments in the gross monthly amount of \$ [REDACTED] for three children. This amount was determined by taking the average of child support payments received over the previous three months as required by BEM 505 and was verified through its connections with the child support system.

The Department credited the Claimant with receiving a \$ [REDACTED] average of child support for one child (R.R.). One of the Department's exhibits seemed to indicate monthly payments of \$ [REDACTED] but the Department established that it only applied \$ [REDACTED] towards FAP eligibility.

For another child (B.C.), Department records indicate that the Claimant received child support totaling \$ [REDACTED] in July of 2015, but none June or August. When this one month of child support received is average over a three month period, it results in a monthly average of \$ [REDACTED] which is the amount applied towards the Claimant's FAP eligibility.

For another child (M.H.), the Claimant received \$ [REDACTED] in June of 2015, \$ [REDACTED] in July of 2015, and \$ [REDACTED] and the three month average of these payments is \$ [REDACTED] which is what the Department applied towards the Claimant's FAP benefits.

The Claimant FAP benefit group consists of six group members and receives total countable income of \$ [REDACTED] which is the total of their earned income and child support payments. The earned income was reduced by the 20% earned income deduction, and total income was reduced by the \$ [REDACTED] standard deduction and a \$ [REDACTED] child support expense reported by a group member. The Claimant's adjusted gross income of \$ [REDACTED] was determined by reducing total countable income by these three deductions.

The Claimant is entitled to deductions for shelter expenses in the amount of \$ [REDACTED]. This was determined by adding their monthly housing expense of \$ [REDACTED] to the \$ [REDACTED] standard heat and utility deduction, then subtracting 50% of their adjusted gross income.

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

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 has presented sufficient evidence to establish that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP) based on her income and expenses.

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: **1/7/2016**

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:

