

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-58165  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: August 15, 2013  
County: Wayne (82-76)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly calculate 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 June 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$28 monthly effective July 1, 2013.
3. On July 11, 2013, Claimant filed a request for hearing disputing the Department's actions.

## **CONCLUSIONS OF LAW**

Department 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).

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

On June 21, 2013, the Department notified Claimant that her FAP benefits would decrease to \$28 effective July 1, 2013. The Department testified that Claimant's benefits decreased because her Retirement, Survivors and Disability Insurance (RSDI) benefits were not previously included in her FAP budget. At the hearing, the figures the Department considered in calculating Claimant's FAP benefits were reviewed. Claimant confirmed the income and monthly shelter expense figures used by the Department. She also verified that the FAP group consisted of only herself and that she did not have any dependent care or child support payments.

The only issues presented in reviewing the budget were the lack of a medical expense deduction and the calculation of the excess shelter deduction. At the hearing, the Department acknowledged that Claimant is disabled. Thus, Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group. BEM 550 (February 2012), p. 1.

An SDV member of a FAP group is eligible for a deduction for verified medical expenses incurred in excess of \$35. BEM 554 (October 1, 2012), p. 1. In this case, Claimant's SOLQ, the Department's data exchange with the Social Security Administration, showed that Claimant paid \$104.90 monthly from her RSDI benefits for her Medicare Part B premium. \$70 of this expense, the amount over \$35, should have been included as a medical deduction in Claimant's FAP budget. See BEM 554 (October 2012), p. 9. Thus, the Department did not act in accordance with Department policy when it failed to include a medical deduction in Claimant's FAP budget.

Further, as an SDV member of her FAP group, Claimant's excess shelter deduction is not subject to a limit. See BEM 554, p. 1. Although the Department did not present an excess shelter deduction budget, a review of Claimant's FAP budget shows that the Department limited Claimant's excess shelter deduction to \$469, the limit for FAP groups with no SDV member. Thus, the Department did not act in accordance with Department policy when it calculated Claimant's excess shelter deduction.

Because the Department improperly excluded the \$70 medical expense Claimant was eligible to receive and limited Claimant's excess shelter deduction, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's FAP budget from July 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 20, 2013

Date Mailed: August 20, 2013

**NOTICE OF APPEAL:** Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

ACE/pf

cc:

