

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20145093
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: November 14, 2013
County: Roscommon

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, a telephone hearing was held on November 14, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) benefit amount?

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 active for FAP with a monthly allotment of [REDACTED] and a group size of 1.
2. Claimant is disabled and received approximately [REDACTED] per month for RSDI.
3. Claimant was active for the Medical Cost Share Program known as Qualified Medicare Beneficiaries (QMB).
4. On September 4, 2013, the Department completed a redetermination of Claimant's FAP case and discovered that the Department had erred when it computed the budget for Claimant's expenses.

5. When the Department determined Claimant's [REDACTED] monthly FAP amount, the Department improperly considered Claimant's Medicare Premium Part B as Claimant's medical expense of [REDACTED] - [REDACTED] exclusion = [REDACTED], but this premium had been covered by the State of Michigan. The Department then rebudgeted Claimant's FAP case.
6. On September 4, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605), which, among other things, decreased Claimant's monthly FAP amount to [REDACTED] effective October 1, 2013.
7. On September 14, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which decreased his monthly FAP amount to [REDACTED] due to a mass update change in the shelter deduction amount.
8. On September 30, 2013, Claimant requested a hearing to challenge the September 4, 2013 and September 14, 2013 reductions in his monthly FAP allotment.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

The Department's computer system, known as "Bridges," uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with one or more SDV member, Bridges uses the following: see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV members that exceed \$35. BEM 554.

An expense that is fully reimbursed is not allowed. BEM 554. If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, the Department will allow only the amount that the group is responsible to pay, unless specific policy directs otherwise. BEM 554. Example: HUD pays \$150 toward a FAP group's \$325 rental expense. The Department will allow only the \$175 (\$325 rent - \$150 HUD pays = \$175) that the group is expected to pay. BEM 554.

Effective October 1, 2013, the Department changed the shelter deduction amount for heat and utility from \$575.00 to \$553.00. See RFT 255. This was the result of a mass change in policy that affected nearly all FAP recipients.

Here, Claimant requested a hearing because his monthly FAP allotment was reduced from [REDACTED] to [REDACTED] and then again to [REDACTED]. The Department, on the other hand, takes the position that both FAP reductions were justified. The first reduction was due to an error in budgeting and the second was due to a mass update in policy. Claimant did not specifically address the Department's contentions, but instead expressed his displeasure with his caseworker.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The Administrative Law Judge has carefully reviewed the evidence in this case. The record shows that the Department's calculations are correct. The Department did, in fact, discover that Claimant's [REDACTED] monthly FAP allotment was incorrect due to an improper monthly medical expense that Claimant did not incur. When the Department corrected this error, Claimant's monthly FAP amount was properly reduced. Claimant did not dispute the Department's calculations of his income and expenses.

A Claimant with a group size of 1 has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant had a certified group size of 1 and a total countable monthly net income of [REDACTED], the food issuance tables indicate that the proper monthly FAP allotment was [REDACTED]. See RFT 260 (July, 2013).

The Department was also correct when it reduced Claimant's monthly FAP from [REDACTED] to [REDACTED]. In the instant case, the evidence and testimony provided confirm that the [REDACTED] reduction in Claimant's monthly FAP allotment resulted from a mass change in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). Normally, the Michigan Administrative Hearing System will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600. However, this Administrative Law Judge will consider Claimant's request for hearing as a challenge to the Department's calculation of his FAP benefits. The record in this matter is undisputed that the [REDACTED] to [REDACTED] reduction was justified and based on the mass update to the shelter deduction amount. This change proportionately affected all similarly-situated FAP recipients and was within policy parameters.

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 Claimant's monthly FAP allotment during the month of September, 2013.

DECISION AND ORDER

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

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 15, 2013

Date Mailed: November 18, 2013

NOTICE OF APPEAL: 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.

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).

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

CAP/aca

cc:

