

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-16434
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: Oakland (3)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Assistant Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective November 7, 2013, ongoing?

FINDINGS OF FACT

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

1. In November 2013, Claimant failed to submit a redetermination and subsequently, he applied for FAP benefits on November 7, 2013.
2. On November 18, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved for November 7, 2013 to November 30, 2013 in the amount of \$12. See Exhibit 1.
3. On November 18, 2013, the Notice of Case Action also notified Claimant that his FAP benefits were approved in the amount of \$15 effective December 1, 2013, ongoing. See Exhibit 1.

4. On November 26, 2013, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1.
5. On December 20, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on January 9, 2014.
6. On January 10, 2014, MAHS sent Claimant an Order of Dismissal.
7. On January 27, 2014, MAHS sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
8. On January 30, 2014, MAHS sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on February 10, 2014.

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.

November 2013 benefits

In November 2013, Claimant failed to submit a redetermination and subsequently, he applied for FAP benefits on November 7, 2013. On November 18, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved for November 7, 2013 to November 30, 2013 in the amount of \$12. See Exhibit 1.

It was not disputed that the certified group size is one and that the Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the November 2013 FAP budget for review. See Exhibit 1. The Department calculated Claimant's gross unearned income to be \$1,007. See Exhibit 1. This comprised of Claimant's Retirement, Survivors, and Disability Insurance (RSDI), which he did not dispute. See BEM 503 (July 2013), p. 28.

The Department then properly applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (October 2013), p. 1. This resulted in an adjusted gross income of \$856 (\$1,007 total income amount minus \$151 standard deduction).

Claimant testified that he had additional medical expenses. The budget did not indicate any medical deductions for the Claimant. See Exhibit 1. Claimant testified that he had prescription co-pays, goes to the doctor three to four times a year, and it appeared that he was responsible for his Medicare premium per his testimony. It should be noted that Claimant's previous budget included medical deductions. See Exhibit 1. However, the Department testified that in his in-person FAP interview, the Department asked him if he has any medical expenses (including prescription co-pays) that exceed \$50 and he stated he did not. Moreover, during the hearing, the Department testified that his SOLQ indicated that he does not pay his Medicare premium and that it is state billing.

For groups with one or more SDV member, the Department uses medical expenses for the SDV member(s) that exceed \$35. BEM 554 (July 2013), p. 1. At application and redetermination, the Department considers only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554, p. 8. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 8.

A list of allowable expenses are located in BEM 554. BEM 554, pp. 9-11. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The expense does not have to be paid to be allowed. BEM 554, p. 11. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department allows only the non reimbursable portion of a medical expense. BEM 554, p. 11. The medical bill cannot be overdue. BEM 554, p. 11. The medical bill is not overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue.

BEM 554, p. 11.

Finally, the Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11.

Based on the foregoing information and evidence, the Department properly did not include medical deductions for November 2013 in accordance with Department policy. The Department presented credible testimony that Claimant stated he did not have medical expenses. Additionally, the Department indicated that Claimant is not responsible for his Medicare premium costs. Claimant did not present verification of his medical expenses.

Additionally, Claimant is a SDV member, thus he is also eligible for shelter expenses above the standard amount. BEM 554, p. 1; See RFT 255, p. 1.

The Department provided Claimant's shelter expenses from the Notice of Case Action dated November 18, 2013. See Exhibit 1. The shelter budget indicated that Claimant's monthly housing expense is \$123, which Claimant did not dispute. See Exhibit 1. The Department then gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit. Then, the Department subtracts the total shelter amount from fifty percent of the adjusted gross income (\$856); this amount is found to be \$248. Thus, the Department properly calculated Claimant's excess shelter deduction of \$248.

Finally, Claimant's net income is determined by taking the adjusted gross income and subtracting the excess shelter deduction. The FAP net income is found to be \$608 (\$856 adjusted gross income, less the \$248 in shelter expenses). A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$12 (24 prorated days), the same amount calculated by the Department. RFT 260 (November 2013), p. 6. Thus, the Department properly calculated Claimant's FAP budget in accordance with Department policy for the effective benefit period of November 2013.

It should be noted that Claimant presented a letter from his doctor, which indicated his medical conditions and recommended food plan. See Exhibit A. Also, Claimant presented a 2013 Mandatory Meal Program Balance Due document, which stated he had a balance as of January 14, 2014. See Exhibit A. Claimant also testified about homestead taxes. However, a review of the above analysis, the Department properly calculated his FAP benefits in accordance with Department policy.

December 2013 benefits

On November 18, 2013, the Notice of Case Action also notified Claimant that his FAP benefits were approved in the amount of \$15 effective December 1, 2013, ongoing. See Exhibit 1.

The Department also presented the December 2013 FAP budget for review from the Notice of Case Action dated November 18, 2013. See Exhibit 1. This budget included the same calculations as shown above.

Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$15, the same amount calculated by the Department. RFT 260, p. 6. Thus, the Department properly calculated Claimant's FAP budget in accordance with Department policy for the effective benefit period of December 1, 2013, ongoing.

DECISION AND ORDER

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 properly calculated Claimant's FAP benefits effective November 7, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 12, 2014

Date Mailed: February 12, 2014

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:

2014-16434/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

