

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001958
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: JUNE 4, 2014
County: OAKLAND-DISTRICT 2

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 4, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's wife. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payment Specialist.

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 and his wife are ongoing recipients of FAP benefits.
2. In connection with a redetermination, Claimant reported receiving monthly Retirement Survivors and Disability Insurance (RSDI) income.
3. On April 21, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective April 1, 2014, the Department approved his group for monthly FAP benefits of \$15.
4. On April 29, 2014, 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), 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in connection with a redetermination, the Department recalculated Claimant's FAP budget to take into consideration his RSDI income. Claimant requested a hearing disputing the calculation of his FAP benefits after the April 21, 2014 Notice of Case Action advised him that he was approved for monthly FAP benefits of \$15 for April 1, 2014 ongoing.

The Department did not present a FAP budget into evidence. Therefore, the FAP budget information on the April 21, 2014 Notice of Case Action was reviewed at the hearing with Claimant and his wife.

The Notice showed that Claimant and his wife received monthly unearned income of \$1487. The Department testified that Claimant and his wife each received RSDI income, but it was unable to identify the amount each received. Claimant testified that he received gross RSDI income of \$612 and Claimant's wife testified that she received \$870 in gross RSDI income. Because the total reported by Claimant and his wife was \$5 less than that identified by the Department, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the gross unearned income received by the household. Furthermore, Claimant testified that he did not begin receiving RSDI income until May 2014. However, the April 12, 2014 Notice shows that Claimant's RSDI income was included in the April 2014 budget. The Department could not explain why it included Claimant's RSDI income in the calculation of the April 2014 FAP budget. Because the Department was unable to identify the unearned income amounts received by Claimant and his wife or to explain why it included Claimant's RSDI income in the April 2014 budget, the Department failed to satisfy its burden of showing how it calculated the unearned income in the FAP budget.

The budget also showed no shelter expenses. At the hearing, the Department testified that Claimant and his wife had indicated in their redetermination interview that they had housing expenses. Claimant and his wife initially provided money order receipts they identified as mortgage payments and a purchase statement concerning their land

contract. The Department advised Claimant that the documentation was not sufficient because it did not identify that payments were made for a mortgage and the amount of the payments and sent him a verification checklist requesting proper verification by May 19, 2014. Claimant credibly testified that he submitted the requested documentation to the Department on May 6, 2014. The Department denied receiving any documentation prior to the hearing date. However, Claimant provided a fax confirmation sheet showing that it faxed a document to the Department on May 6, 2014 and the Department verified that the fax number was its own. Under these facts, Claimant established that he timely provided verification of his monthly shelter expenses. Therefore, the Department did not act in accordance with Department policy when it failed to include those expenses in the calculation of Claimant's FAP budget.

The evidence at the hearing established that both Claimant and his wife are senior/disabled/veteran (SDV) members of their FAP group. Accordingly, they are eligible for a deduction in their FAP budget for out-of-pocket medical expenses in excess of \$35. BEM 554 (February 2014), pp. 1, 8. The Notice showed that \$70 medical deduction. Based on Claimant's wife's testimony that she receives Medicare and the federal government deducts \$105 from her RSDI income for payment of her Medicare Part B premium, it appears that the medical deduction was due to the Part B premium. The Department testified that no other medical expenses were identified on the redetermination or provided by Claimant and his wife. Based on the information available to it at the time of the redetermination, the Department properly considered a \$70 medical expense deduction. Claimant and his wife were advised to submit out-of-pocket medical expenses they incur to the Department, which may affect future FAP benefits.

A client is also eligible for a deduction in his FAP budget for court-ordered child support expenses, including arrearages. BEM 554, p. 6. At the hearing, Claimant testified that he paid child support. However, the Department responded that it was never notified of such expenses. Because the Department was not aware of the expense at the time it prepared the April 2014 ongoing FAP budget, it properly excluded any child support deduction from the budget. Claimant was advised that, if verified, such expenses could affect future FAP benefits. See BEM 554, pp. 6-7.

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 did not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits because it failed to (i) verify the amount of unearned income received by the parties and (ii) include Claimant's shelter expenses.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP budget for April 1, 2014;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from April 1, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin

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

Date Signed: **6/11/2014**

Date Mailed: **6/11/2014**

ACE / tlf

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

cc:

