

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-003919  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: JULY 9, 2014  
County: WAYNE-DISTRICT 57

**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 July 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for July 1, 2014 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. Claimant was an ongoing recipient of FAP benefits.
2. In connection with a Medical Assistance (MA) redetermination, Claimant disclosed only \$15 in medical expenses.
3. The Department recalculated Claimant's FAP budget.
4. On May 27, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would decrease to \$57 monthly effective July 1, 2014.
5. On May 29, 2014, Claimant filed a request for hearing disputing the Department's calculation of his FAP benefits.

## **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, at the hearing the Department presented a FAP net income budget showing the figures and information it used to calculate Claimant's FAP benefits, which was reviewed with Claimant at the hearing.

The budget showed that Claimant had unearned gross monthly Retirement Survivors and Disability Income (RSDI) of \$1091. Claimant testified that he received only \$1032 in RSDI income, explaining that he believed that the Social Security Administration (SSA) was withholding funds because of an overpayment. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income and should be excluded from income. BEM 500 (July 2014), p. 5. The SOLQ, the Department's data exchange with the Social Security Administration, confirmed Claimant's testimony that his net RSDI income was \$1032. However, it does not show that amounts were withheld due to an overpayment. There is no indication on the SOLQ concerning the reasons for the reductions to Claimant's gross RSDI income. Claimant acknowledged that he provided a letter to the Department from SSA dated May 13, 2014 showing that his monthly RSDI income was \$1091. Because the letter shows RSDI income paid to Claimant of \$1091 and the SOLQ does not indicate that amounts withheld are due to overpayments, the Department properly considered the gross \$1091 in RSDI income for Claimant's unearned income in the FAP budget. See BEM 503 (July 2014), p. 28.

Claimant is advised that if he can provide verification to the Department from SSA that it is withholding RSDI income to recover a previous overpayment, the amounts withheld should not be considered as his unearned income and used in calculating his FAP benefits and may result in an increase in future benefits.

Claimant confirmed that he was the only member of his FAP group. Because Claimant did not have any earned income and he was a senior/disabled/veteran (SDV) member of his FAP group, he was eligible for the following deductions under Department policy:

- a standard deduction of \$151 based on his one-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account monthly housing expenses and utility expenses (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that he had no day care or child support expenses. The only issue concerning deductions presented at the hearing was the calculation of his excess shelter deduction and his medical expenses.

In determining a client's excess shelter deduction, the Department considers a client's monthly shelter expenses and heat/utility obligations. The Department's budget shows that the Department applied the \$553 mandatory heat and utility standard, the highest and most beneficial utility deduction available to a client's FAP case. See BEM 554, pp. 14-23; RFT 255, p. 1. To establish his shelter expenses, Claimant submitted verification of his monthly mortgage and his winter and summer property taxes. At the hearing, the Department acknowledged that it had failed to consider Claimant's monthly winter property taxes in determining his monthly shelter expenses. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's monthly shelter expenses and consequently his excess shelter deduction. See BEM 554, p. 13; BEM 556, p. 4.

The Department did not include any medical expense deduction in Claimant's FAP budget and testified that a large part of the decrease in Claimant's monthly FAP benefits was due to the fact that, in the May 2014 MA redetermination, Claimant identified only a \$15 medical expense. The Department explained that Claimant had previously received a medical expense deduction in his FAP budget for an ongoing medical expense, but when that expense was not identified on the redetermination, it was removed from Claimant's FAP budget.

Department policy provides that the Department may estimate an SDV person's medical expenses for the FAP benefit period based on verified allowable medical expenses, available information about the SDV's member's medical condition and health insurance, and changes that can reasonably be anticipated to occur during the benefit period. BEM 554, p. 8. While the FAP group is not required to report changes concerning medical expenses during the benefit period, the Department must process any reported changes if they are voluntarily reported and verified. BEM 554, p. 8. Department policy also provides that for groups with a 24-month benefit period, one-time-only medical expenses billed or due within the first 12 months of the benefit period may, at the client's option, be budgeted for one month, averaged over the remainder of the first 12 months of the benefit period, or averaged over the remainder of the 24-month benefit period. BEM 554, p. 9.

At the hearing, the Department testified that Claimant's FAP certification period was December 1, 2013 to November 30, 2015. Although the May 2014 redetermination

does not clearly identify the programs at issue, the Department clarified that the redetermination concerned Claimant's ongoing MA eligibility. It is not clear in this case whether the prior medical expenses considered in Claimant's FAP budget were one-time-only medical expenses that were averaged over several months or recurring expenses. If the prior expenses included as a medical deduction in Claimant's FAP budget were one-time-only expenses, the Department did not act in accordance with Department policy when it removed the expense from Claimant's FAP budget. If the prior expenses were recurring expenses, the Department could properly conclude that, because Claimant voluntarily reported a change in medical expenses in his MA redetermination during the FAP certification period and did not verify any medical expenses in excess of \$35 and, he was no longer eligible for a medical deduction. BEM 554, pp. 11-12. Because the Department did not establish whether the prior expense was a one-time-only expense or a recurring expense, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it removed the prior medical expense.

Claimant was advised at the hearing that if he had additional medical expenses, he should submit them to the Department for consideration in his FAP budget.

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 satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

### **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. Determine whether the medical expense deduction in Claimant's FAP budgets prior to July 1, 2014 concerned an unexpired one-time-only expense averaged over several months;
2. Recalculate Claimant's FAP budget for July 1, 2014 ongoing to take into consideration Claimant's winter property taxes and, if applicable, ongoing medical expense deduction for averaged one-time-only expense;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from July 1, 2014 ongoing; and

4. Notify Claimant in writing of its decision.



---

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

Date Signed: **7/14/2014**

Date Mailed: **7/16/2014**

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:



.