

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-005851
Issue No.: 3008
Case No.: ██████████
Hearing Date: August 20, 2014
County: WAYNE-DISTRICT (19)

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 August 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████ (did not provide testimony); and Claimant's mother/Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$93 effective 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 is an ongoing recipient of FAP benefits.
2. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$93 effective July 1, 2014, ongoing. See Exhibit 2, pp. 1-4.
3. On June 19, 2014, Claimant's AHR filed a hearing request, protesting the FAP allotment. See Exhibit 1, p. 2.
4. On July 17, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled a hearing on July 30, 2014.

5. On July 23, 2014, Claimant's AHR requested an adjournment.
6. On July 29, 2014, the Administrative Law Judge (ALJ) sent Claimant an Adjournment Order.
7. On August 7, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled a hearing for August 20, 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 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.

In this case, Claimant is an ongoing recipient of FAP benefits. On June 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$93 effective July 1, 2014, ongoing. See Exhibit 2, pp. 1-4. On June 19, 2014, Claimant's AHR filed a hearing request, protesting the FAP allotment. See Exhibit 1, p. 2.

It was not disputed that the certified group size is one and that Claimant is senior/disabled/disabled veteran (SDV) member. The Department presented the July 2014 FAP budget for review. See Exhibit 1, pp. 3-4. The Department calculated a gross earned income amount of \$28, which the AHR did not dispute. See Exhibit 1, p. 3. Moreover, the Department calculated Claimant's unearned income to be \$927. See Exhibit 1, p. 3. This amount comprised of Claimant's Social Security income, which the AHR did not dispute. See BEM 503 (January 2014), pp. 28-32. The Department calculated a total income amount of \$955. See Exhibit 1, p. 3.

The Department then applied the 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$28 is \$6, which results in a post earned income of \$949 (\$955 total income amount minus \$6 earned income deduction). See Exhibit 1, p. 3.

The Department then applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$151 standard deduction, this results in an adjusted gross income of \$798. See Exhibit 1, p. 3.

Additionally, the Department presented Claimant's excess shelter deduction budget for July 2014. See Exhibit 1, p. 10. The July 2014 FAP budget indicated that Claimant's housing costs were \$955, which the AHR did not dispute. See Exhibit 1, p. 10. However, the Notice of Case Action dated June 12, 2014, indicated the housing expenses were \$770. See Exhibit 1, p. 3. It was unclear why there was the housing expense discrepancy. Moreover, the Department's exhibit included a letter from the AHR dated June 3, 2014 (received on June 30, 2014), which indicated the rent with utilities is \$955 for Claimant. See Exhibit 1, p. 5.

The Department verifies shelter expenses at application and when a change is reported. BEM 554 (May 2014), p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information, the evidence presented that Claimant's housing expenses is \$955 as reflected in the Department's exhibit and as shown in the July 2014 budget. See Exhibit 1, pp. 5 and 10. As such, the Department will recalculate Claimant's FAP benefits and apply Claimant's housing expenses as \$955 effective July 1, 2014, ongoing.

Furthermore, the Department 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 and see also BEM 554, p. 15 (changes effecting the mandatory heat and utility standard effective May 1, 2014).

Subsequently, the total shelter obligation is calculated by adding Claimant's housing expenses to the heat and utility standard; this amount is found to be \$1,508. See Exhibit 1, p. 10. Then, the Department subtracts the total shelter amount from fifty percent of the \$798 adjusted gross income. Fifty percent of the adjusted gross income is \$399. See Exhibit 1, p. 10. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$1,109. However, the Department only applied the maximum excess shelter deduction of \$478. See Exhibit 1, p. 10 and RFT 255, p. 1. For groups with no SDV member(s), the Department uses excess shelter up to the maximum of \$478. See BEM 554, p. 1 and RFT 255, p. 1. It is unclear why the Department applied the \$478 excess shelter maximum as it was acknowledged during the hearing the Claimant is an SDV member.

For groups with one or more SDV member, the Department uses excess shelter. See BEM 554, p. 1. An SDV FAP group is one which has an SDV member. BEM 550, p. 1. Disabled is a person who receives one of the following:

- A federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act.

- Medicaid program which requires a disability determination by MRT or Social Security Administration.
Note: Breast and Cervical Cancer Prevention and Treatment Program Medicaid cases are not considered disabled.

BEM 550, pp. 1-2. A person who receives or has been certified and awaiting their initial payment for one of the following:

- Social Security disability or blindness benefits. BEM 550, p. 2.
- Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

BEM 550, p. 2.

Based on the foregoing information, the evidence presented that Claimant is disabled because both parties agreed that Claimant was disabled. Moreover, the Department presented Claimant's State On-line Query (SOLQ), which confirmed she was disabled. See Exhibit 1, pp. 7-9 and BEM 550, p. 6. Because Claimant is found to be an SDV member due to her disability, she is entitled to excess shelter. BEM 554, p. 1. The Department improperly calculated Claimant's excess shelter deduction because it only considered her as a non-SDV member. Instead, the Department will apply Claimant as an SDV member and recalculate her FAP benefits effective July 1, 2014, ongoing, in accordance with Department policy. BEM 550, pp. 1-2 and BEM 554, p. 1.

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 did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective July 1, 2014, ongoing.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget for July 1, 2014, ongoing (including shelter expenses), in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2014, ongoing; and

3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

Date Signed: **8/22/2014**

Date Mailed: **8/22/2014**

EJF/cl

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:

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