

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

IN THE MATTER OF:



Reg. No.: 14-006267
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: Wayne-District 15

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 31, 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 August 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. Claimant is the sole member of her FAP group.
3. Claimant currently receives monthly Retirement, Survivors and Disability (RSDI) income of \$747.
4. In connection with the approval of her application for Medical Savings Program (MSP) benefits, the Department recalculated Claimant's FAP budget.
5. On June 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreasing to \$135 monthly effective August 1, 2014.

6. On July 18, 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, Claimant was receiving monthly FAP benefits of \$166. When she was approved for MSP benefits, resulting in the Department's payment of her \$105 monthly Part B Medicare premiums, the Department recalculated her FAP budget to remove the \$70 medical deduction. On June 25, 2014, the Department notified Claimant that her monthly FAP benefits were decreasing to \$135 effective August 1, 2014, and Claimant requested a hearing disputing the reduction in benefits.

The Department provided a net income budget showing the calculation of FAP benefits for August 1, 2014 ongoing that was reviewed with Claimant at the hearing. Claimant confirmed the income used in her FAP budget and that she was the sole member of her FAP group.

Because Claimant did not have any earned income and she was a senior/disabled/veteran (SDV) member of her FAP group, she was eligible for the following deductions to her income under Department policy:

- a standard deduction of \$151 based on her one-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account Claimant's confirmed monthly housing expenses of \$161 and the heat and utility standard (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 she had no day care or child support expenses. She acknowledged that the Department had starting paying her Part B Medicare premiums. Therefore, she was no longer eligible for a medical deduction for that expense. BEM 554, pp. 8, 10. Because she had not verified any out-of-pocket medical expenses

exceeding \$35 to the Department, the Department properly did not consider any medical expense deduction in the calculation of Claimant's net income.

Although the excess shelter deduction calculation provided by the Department identified, in addition to the monthly \$161 rent, both the heat and utility (h/u) standard of \$553 and the non-heat electric standard of \$127, a review of the calculation of the excess shelter deduction shows that the Department considered only the rent and the \$553 h/u standard. Department policy provides that clients who received the h/u standard on or before February 7, 2014 continue to receive the h/u standard for a period of five months after the month of the first reported change occurring on or after May 1, 2014. BEM 554, p. 15. Because Claimant is an ongoing FAP recipient and the change in this case occurred after May 1, 2014, under the facts in this case, Claimant is eligible for the h/u standard. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. Therefore, the Department properly applied only the \$553 h/u standard in the calculation of Claimant's excess shelter deduction. RFT 255 (December 2013), p. 1. In Claimant's case, the excess shelter deduction, based on the \$161 rent and \$553 h/u standard, was properly calculated as \$416. BEM 556, pp. 4-5.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly reduced Claimant's gross income of \$747 by the \$151 standard deduction and the \$416 excess shelter deduction, resulting in monthly net income of \$180. Based on net income of \$180 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$135. BEM 556; RFT 260 (December 2013), p. 3.

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 calculated Claimant's FAP benefits for August 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's FAP decision is AFFIRMED.



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

Date Signed: **8/5/2014**

Date Mailed: **8/6/2014**

ACE / ttf

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:

