

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

IN THE MATTER OF:

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

Reg. No.: 14-007094
Issue No.: 3008
Case No.: ██████████
Hearing Date: AUGUST 18, 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 August 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist, and ██████████, Family Independence Manager.

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. On June 13, 2014, Claimant applied for FAP benefits.
2. Claimant is the sole member of her FAP group.
3. Claimant's only income is her monthly \$719 Retirement, Survivors and Disability Insurance (RSDI) benefit.
4. On July 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for monthly FAP benefits of \$15 effective July 1, 2014 ongoing.
5. On July 16, 2014, Claimant filed a request for hearing disputing the Department's calculation of her 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.

At a preliminary matter, it is noted that there was evidence presented at the hearing concerning verifications requested and received by the Department after Claimant's July 16, 2014 hearing request and lump-sum settlement amounts received by Claimant prior to the hearing request. However, as of the July 16, 2014 date Claimant requested her hearing concerning the amount of her FAP benefits, no action had been taken by the Department with respect to those matters. Claimant was advised that she could request a hearing if the Department took any subsequent negative actions pertaining to her FAP case based on verifications or settlements.

Claimant's July 16, 2014 hearing request was specifically tied to the July 8, 2014 Notice of Case Action notifying her that she was denied FAP benefits for June 13, 2014 to June 30, 2014 and approved for \$15 in monthly FAP benefits effective July 1, 2014 ongoing. The issue at the hearing was limited to the Department's calculation of Claimant's monthly FAP allotment. Because benefits for eligible FAP recipients are prorated from the date of application, which the evidence established was June 13, 2014 in this case, and the Department did not establish that Claimant was ineligible for FAP benefits for June 2014, Claimant's eligibility for June 13, 2014 ongoing is considered. BAM 115 (July 2014), pp. 25-26.

The Department presented a FAP net income budget showing the calculation of Claimant's benefits which was reviewed with Claimant at the hearing. The budget showed unearned income of \$1282. The Department was able to verify that \$719 of this amount was Claimant's RSDI income. However, the Department was unable to explain the basis for the remaining \$563 in unearned income. Claimant denied receiving any income other than RSDI. Although the Department believed that the remaining income may have been proceeds from sick and accident insurance that was previously entered into its system, Claimant testified that proceeds from that insurance had ended in 2012 and the Department acknowledged that Claimant had not identified any income other than RSDI income in her application. Under the facts presented, the Department did not act in accordance with Department policy when it used \$1282 for Claimant's income.

At the hearing, the Department verified that Claimant was a senior/disabled/veteran (SDV) member of her FAP group. For groups with one or more SDV members, the following deductions are available from the group's total income:

- Standard deduction.
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.

BEM 554 (May 2014), p. 1.

Claimant confirmed that she had no day care or child support expenses. Under the circumstances presented, Claimant was eligible for the following deductions from her unearned income: (i) the standard deduction of \$151 based on her single-member FAP group size; (ii) a medical deduction for verified, out-of-pocket medical expenses over \$35; (iii) an excess shelter deduction that takes into consideration her monthly housing expenses and, because she verified that she pays utilities, a heat and utility standard of \$553. BEM 554, pp. 1, 8-19.

The budget shows that the Department properly applied the \$151 standard deduction. The Department testified that the \$70 medical deduction was Claimant's Part B Medicare premium of \$105, less the \$35 threshold. However, Claimant indicated in her application that she had an additional medical insurance premium totaling \$6.70 and testified that this amount was deducted from her RSDI income. Although Claimant's SOLQ does not specify any medical expenses other than the Part B Medicare premium, the difference between Claimant's gross pay and net pay leaves an additional \$6.30 unaccounted for after the Part B premium is taken into consideration and supports Claimant's testimony that the Social Security Administration withheld additional funds from her RSDI. The Department presented no evidence that it requested that Claimant verify the additional medical insurance premium she identified on her application. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's medical expense deduction.

For purposes of calculating Claimant's excess shelter deduction, the Department considered only Claimant's monthly homeowner's insurance premium, dividing the annual cost by 12. Claimant acknowledged that the amount used was correct. Claimant further testified that she had no mortgage payments but she was in arrears with her property taxes. The Department must allow a shelter expense when billed even if the expense is not paid. BEM 554, p. 12. In this case, the Department did not consider property taxes in determining Claimant's shelter expenses and there was no evidence presented that it requested verification of such expenses. Therefore, the Department did not act in accordance with Department policy when it did not consider Claimant's property taxes when it calculated Claimant's housing expenses for purposes of determining her excess shelter deduction.

Because the Department failed to properly calculate Claimant's unearned income, her medical deduction, or her excess shelter deduction, 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 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. Recalculate Claimant's FAP benefits for June 13, 2014 ongoing; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 13, 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: **8/25/2014**

Date Mailed: **8/25/2014**

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]