

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

IN THE MATTER OF:

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Reg. No.: 14-008680
Issue No.: 3008
Case No.: ██████████
Hearing Date: September 4, 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 September 04, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for June 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. On April 4, 2014, Claimant applied for FAP benefits and was approved for \$145 in monthly FAP benefits.
2. On May 13, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective June 1, 2014 his monthly FAP benefits were decreasing to \$15.
3. On July 31, 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, Claimant disputed the calculation of his monthly FAP benefits. The evidence at the hearing established that, following his April 4, 2014 FAP application, Claimant was approved for monthly FAP benefits of \$145. On May 13, 2014, the Department sent Claimant a Notice of Case notifying him that his monthly FAP benefits were decreasing to \$15 effective June 1, 2014.

The Department presented a FAP net income budget showing the calculation of Claimant's FAP benefits for June 1, 2014 ongoing that was reviewed with Claimant at the hearing. The budget showed unearned income of \$755, which the Department testified was Claimant's combined Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI). The sum of Claimant's RSDI and SSI income, as shown on the SOLQ, the Department's data exchange with the Social Security Administration, is \$741, \$14 less than the \$755 unearned income figure shown on the FAP budget. Under Department policy, the Department issues SSP to SSI recipients who the SOLQ shows are issued SSI as a recurring payment dated the first of the month. BEM 660 (July 2013), p. 1. Although Claimant denied receiving SSP, the SOLQ shows that his SSI payments were recurring payments dated the first of the month. Therefore, the Department established that Claimant received a \$14 monthly SSP payment, based on quarterly SSP payments of \$42, and properly considered this payment in calculating Claimant's gross monthly income. BEM 660, pp 1-2; BEM 503 (July 2014), p. 33. Based on the evidence presented, the Department acted in accordance with Department policy when it calculated Claimant's gross income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- 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.
- Standard deduction based on group size.

- An earned income deduction equal to 20% of any earned income.

BEM 554 (May 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and confirmed that he had no dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, or child support expenses. Based on his one-person group size, the Department properly applied the \$151 standard deduction. RFT 255, p. 1. The Department testified that Claimant had not verified any out-of-pocket medical expenses over \$35. Claimant's SOLQ shows that, between February 1, 2014 and April 30, 2014, Claimant was responsible for his Part B Medicare premium, but beginning May 1, 2014, the State paid this premium. Because there was no evidence that Claimant had any medical expenses, the Department properly excluded any medical deduction.

In calculating Claimant's excess shelter deduction, the Department considered Claimant's \$209 monthly shelter expenses and \$34 for the telephone standard. Claimant verified that his monthly rent was \$209. The Department explained that Claimant's April 4, 2014 FAP application was reprocessed to determine his eligibility for the \$553 heat and utility (h/u) standard pursuant to Department policy. Department policy provides that all FAP applications that were not certified before March 10, 2014 had to be reprocessed to require the client to verify heat, gas, electric, and telephone expenses that the client is responsible to pay. BEM 554, p. 15. Because Claimant applied for FAP on April 4, 2014, his application was subject to reprocessing to determine his eligibility for the h/u standard.

Under the revised policy, the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554 (May 2014), pp. 16-19; RFT 255 (December 2013), p. 1. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

In this case, Claimant confirmed that his rent included his gas, electric and heat expenses, and he was responsible only for his telephone bill. Therefore, he was eligible for only the telephone standard expense, which is \$34 under Department policy. RFT 255, p. 1. The budget shows that the Department applied the appropriate utility standard to Claimant's case. A review of the calculation of Claimant's excess shelter

deduction based on \$209 in rent and the \$34 telephone standard shows that Claimant was not eligible for an excess shelter deduction. RFT 556, pp. 4-5. Therefore, the Department properly did not include such a deduction in the budget.

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 \$755 by the \$151 standard deduction, resulting in monthly net income of \$604. Based on net income of \$604 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 \$15. BEM 556; RFT 260 (December 2013), p. 8.

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 June 1, 2014 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: **9/9/2014**

Date Mailed: **9/9/2014**

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]