

**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.: 14-009241
Issue No.: 3008
Case No.: ██████████
Hearing Date: September 10, 2014
County: WAYNE-DISTRICT (49)

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 September 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. 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 effective September 1, 2014?

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 16, 2014, the Department sent Claimant a redetermination (DHS-1010), which was due back by July 1, 2014. See Exhibit 1, p. 5.
3. On June 30, 2014, Claimant submitted a redetermination. See Exhibit 1, pp. 5-10. In the redetermination, Claimant indicated unearned income (Social Security benefits) and reported an address change with a monthly rental obligation of \$221. See Exhibit 1, pp. 5-10.

4. On July 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$83 effective August 1, 2014. See Exhibit 1, pp. 17-18.
5. On August 11, 2014, Claimant's landlord submitted a shelter verification (DHS-3688), which indicated her monthly rental obligation was \$227. See Exhibit 1, pp. 12-13. In the shelter verification, Claimant's rent included electric, water/sewer, cooking fuel, heating/cooling, and trash removal. See Exhibit 1, p. 12.
6. On August 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective September 1, 2014. See Exhibit 1, pp. 19-20.
7. On August 11, 2014, Claimant filed a hearing request, protesting her FAP allotment. Exhibit 1, pp. 2-3.

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.

As a preliminary matter, Claimant testified that she was disputing her FAP allotment in the amount of \$15 effective September 1, 2014. Because Claimant testified that she is disputing her September 2014 FAP allotment and the request for hearing was timely, this Administrative Law Judge (ALJ) will only address Claimant's FAP allotment for September 1, 2014. See BAM 600 (July 2014), pp. 4-6.

In this case, Claimant is an ongoing recipient of FAP benefits. On August 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective September 1, 2014. See Exhibit 1, pp. 19-20. On August 11, 2014, Claimant filed a hearing request, protesting her FAP allotment. Exhibit 1, pp. 2-3.

It was not disputed that the certified group size is one and that Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the September 2014 FAP budget for review from the Notice of Case Action dated August 11, 2014. See Exhibit 1, pp. 19-20. The Department calculated a gross unearned income amount of \$755. See Exhibit 1, p. 20. This amount comprised of Claimant's Social Security Administration benefits (Retirement, Survivors, and Disability Insurance, Supplemental Security Income, and State SSI Payments (SSP)), which she did not dispute. See BEM 503 (July 2014), pp. 28-33 and Exhibit 1, pp. 15-16.

Then, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of one, which resulted in an adjusted gross income of \$604. RFT 255 (December 2013), p. 1 and see Exhibit 1, p. 20.

The Department also calculated Claimant's housing costs to be \$227, which she did not dispute. See Exhibit 1, p. 14. It should be noted that the Notice of Case Action budget did not include housing expenses. See Exhibit 1, p. 20. However, the Department presented an excess shelter deduction budget for September 2014, which showed housing expenses to be \$227. See Exhibit 1, p. 14.

Moreover, Claimant's budget indicated that she was not receiving the \$553 heat and utility standard (h/u) even though she received it in the past. See Exhibit 1, p. 20. The evidence indicated that Respondent was no longer eligible for the h/u standard because her rent includes electricity, heating/cooling, etc... In the shelter verification, Claimant's landlord indicated that the rent included electric, water/sewer, cooking fuel, heating/cooling, and trash removal. See Exhibit 1, p. 12. Claimant did not dispute that her rent included electricity and heating/cooling.

For groups with one or more SDV members, the Department uses excess shelter. See BEM 554 (May 2014), p. 1. The h/u standard is \$553. See RFT 255, p. 1. The h/u standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. BEM 554, p. 14. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. The Department does not require verification of the other utility standards if the household is already eligible for the h/u standard. BEM 554, p. 15.

Effective May 1, 2014, when the Department processes applications, redeterminations, or when a change is reported clients are not automatically allowed the h/u standard. BEM 554, p. 15.

All new FAP applications that were not certified before March 10, 2014, when the Agricultural Act of 2014 went into effect, will be reprocessed to follow the MANDATORY HEAT AND UTILITY STANDARD section in BEM 554 and will be required to provide verification once the systems changes are completed on May 1, 2014. BEM 554, p. 15.

For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. BEM 554, p. 15. In order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section in BEM 554. BEM 554, p. 15.

Based on foregoing information and evidence, the Department failed to provide Claimant the h/u standard for September 2014, ongoing. The evidence presented that Claimant received the h/u standard on or before February 7, 2014. Claimant had her first redetermination after May 1, 2014 in the month of July 2014, with the benefit period beginning in August 2014. See Exhibit 1, pp. 5-10. The delayed implementation change requires her benefit issuance amount starting in January 2015 to include utilities for which she is responsible to pay. See BEM 554, p. 15. Therefore, from August 2014 to December 2014, Claimant will continue to automatically receive the h/u standard. See BEM 554, p. 15. However, if Claimant does not verify any responsibility for utilities, then starting with her January 2015 FAP issuance her budget will no longer contain any heat or utility expenses. BEM 554, p. 15. The evidence indicated that Claimant received the h/u standard for August 2014. See Exhibit, p. 18. As such, the Department will recalculate Claimant's FAP benefits effective September 1, 2014 and include the h/u standard through December 2014.

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 September 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 effective September 1, 2014, ongoing and include the h/u standard through December 2014, in accordance with Department policy;
2. Issue supplements to Claimant for September 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: **9/12/2014**

Date Mailed: **9/12/2014**

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:

[REDACTED]
[REDACTED]
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