

**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.: 14-015646
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 8, 2014
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

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 December 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUE

Did the Department properly decrease Claimant's Food Assistance Program (FAP) allotment effective November 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 October 9, 2014, Claimant submitted a Mid-Certification Contact Notice (mid-certification) and he indicated no changes in his ongoing housing expenses.
3. On October 10, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits would decrease to \$62 effective November 1, 2014 because his shelter deduction amount has changed. See Exhibit A, pp. 1-3.
4. On October 30, 2014, Claimant filed a hearing request, protesting his FAP allotment. See 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 also inquired into whether he qualified for the State Supplemental Security Income (SSI) Payment (SSP) program and if the Department failed to provide such payments to him. However, Claimant failed to indicate any dispute with the SSP program in his hearing request. Claimant can file another hearing request to dispute the SSP program. See BAM 600 (October 2014), pp. 4-6 and BEM 660 (July 2013), pp. 1-4.

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 November 2014 FAP budget for review from the Notice of Case Action dated October 10, 2014. See Exhibit A, p. 2. The Department calculated a gross unearned income amount of \$735. Exhibit A, p. 2. This amount comprised of Claimant's Social Security Administration benefits, which he did not dispute. See BEM 503 (July 2014), pp. 28-33 and Exhibit A, p. 2.

Then, the Department properly applied the \$154 standard deduction applicable to Claimant's group size of one. See RFT 255 (October 2014), p. 1 and see Exhibit A, p. 2.

Moreover, Claimant's budget indicated that he was not receiving the \$553 heat and utility (h/u) standard. See Exhibit 1, p. 13. The budget indicates that Claimant receives the telephone standard of \$34. RFT 255, p. 1 and see Exhibit A, p. 2. It should be noted that Claimant appeared to submit proof of heat/utility expense on or around November 22, 2014, which resulted in the Department applying the h/u standard for December 2014. This increased Claimant's FAP benefits to \$194 for December 2014; however, the Department was unclear why the Department did not apply the h/u standard for November 2014. The Department testified that Claimant appeared to receive the h/u standard in the past due to him almost receiving the maximum FAP allotment in previous benefit months.

At the hearing, Claimant testified that the heat/utility bill is in his mother's name and he pays her half for each service. Furthermore, Claimant testified that he provided his heat/utility bills for his past redetermination in October 2013. The Department acknowledged a redetermination in October 2013, but did not locate copies of heat/utility bill. Furthermore, Claimant testified he marked no changes to his household expenses in the mid-certification and did not provide copies of his heat/utility bills. Claimant testified that he did not provide copies because there had been no changes in housing expenses and no mention of showing the bill again. Finally, Claimant testified that he spoke to the Department in November 2014 as to why the benefits decreased. Claimant testified the Department informed him that it now needed verification of such expenses. However, Claimant testified that he received no Verification Checklist (VCL) subsequent to the mid-certification. It should be noted that Claimant did provide proof of his heat/utility bills at the hearing. See Exhibit A, pp. 4-5.

For groups with one or more SDV members, the Department uses excess shelter. See BEM 554 (October 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.

Finally, the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. For redeterminations/mid-certifications, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 (July 2014), p. 14 and see also BAM 130, p. 6 (allow the client 10

calendar days (or other time limit specified in policy) to provide the verification that is requested). However, for redeterminations/mid-certifications, the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 14.

Based on the foregoing information, the Department improperly calculated Claimant's h/u standard deduction in accordance with Department policy. It appears that the Department removed the h/u standard effective November 1, 2014, based on the new BEM 554 policy stated above. See BEM 554, p. 15. Claimant testified that he did not provide copies because there had been no changes in housing expenses and no mention of showing the bill again. This is a reasonable argument by the Claimant, even if the mid-certification requests proof of such expenses. Nevertheless, the evidence indicated that Claimant received the h/u standard in the past and the Department never sent Claimant a VCL requesting such proof after he submitted the mid-certification. See BAM 130, p. 3 and 6 and BAM 210, p. 14. Because Claimant already provided proof of his heat/utility expense at the time of this hearing, the Department will apply Claimant's \$553 h/u standard for November 1, 2014, ongoing, in accordance with Department policy.

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 effective November 1, 2014.

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. Apply Claimant's \$553 h/u standard for November 1, 2014, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for November 1, 2014, ongoing; and

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


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

Date Signed: **12/10/2014**

Date Mailed: **12/20/2014**

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 48909-8139

CC:

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