

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-003071
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 19, 2014
County: Kent-District 1 (Franklin)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 19, 2014 from Lansing, Michigan. Participants on behalf of Claimant included ██████████ (Claimant's sister/legal guardian/Authorized Hearing Representative (AHR)). Participants on behalf of the Department of Human Services (Department) included ██████████ (Hearing Facilitator), ██████████ (Assistance Payments Worker) and ██████████ (Assistance Payments Supervisor).

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) monthly allotment?

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 was active for FAP with a monthly allotment of ██████████.
2. Claimant had a FAP household size of 1 at all relevant times.
3. Claimant received Retirement Survivors Disability Insurance (RSDI) during the relevant time period.
4. Effective May 1, 2014, the Department, due to a change in policy (BEM 545), now requires FAP recipients to verify heat and utility expenses.
5. On May 1, 2014, the Department mailed Claimant a Verification Checklist (DHS-3503), which requested Claimant provide verification of home heating credit

(HHC), state emergency relief (SER) and that she received low-income home energy assistance program (LIHEAP) assistance in the form of a letter from the provider. The proofs were due by May 12, 2014.

6. On May 9, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which, effective June 1, 2014 through February 29, 2016, decreased her monthly FAP benefits to [REDACTED] because “the automatic heating and utilities credit expired.”
7. On May 19, 2014, Claimant’s AHR requested a hearing to challenge the Department’s decision to reduce Claimant’s monthly FAP allotment.

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.

BEM 550 (2-1-2014) describes the Department’s income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550, pp 1-3. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550, pp 1-3. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 p 1.

The Department will budget the entire amount of earned and unearned countable income. BEM 550, p 1. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550, p 1. Every case is allowed the standard deduction shown

¹ A “senior” is a person at least 60 years old. BEM 550 p 1.

² A “disabled” person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

in RFT 255. BEM 550, p 1. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550, p 1.

Effective May 1, 2014, the Department amended BEM 554 which now provides that when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility⁴ (h/u) standard. (See BEM 554, p 15.) These FAP clients will be required to provide verification of the h/u standard. BEM 554, p 15.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130, p 6. For FAP, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130, p 6.

The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

Here, the Department contends that Claimant's monthly FAP was properly reduced because Claimant, following a change in policy (BEM 554), failed to provide verification of her household's obligation to pay for heat and utilities, which resulted in the Department using ■ for excess shelter deduction in her budget. Because Claimant failed to provide these verifications, the Department argues that Claimant's FAP was properly reduced from ■ to ■. Claimant's AHR, on the other hand, states that Claimant's bills are in her name. Claimant's AHR; however, does not dispute that she failed to turn in the verifications at issue. Claimant's AHR, for the first time at the hearing, provided the Department with the requested verification in the form of a signed statement regarding Claimant's heat and utility expenses.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

⁴ The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc. BEM 554, p 14.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Because there is no dispute that Claimant failed to provide the requested verifications by the due date, the Department properly budgeted \$0 for the excess shelter deduction. The record reveals that Claimant was receiving monthly unearned income from RSDI in the amount of [REDACTED] which is reduced by a standard deduction of [REDACTED], which leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

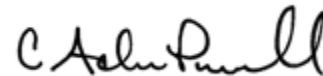
An SVD claimant with a group size of 1 has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant had a certified group size of 1 and a total countable monthly income of [REDACTED], the food issuance tables indicate that the proper monthly FAP allotment is [REDACTED]. See RFT 260.

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 reduced Claimant's monthly FAP to [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/20/2014**

Date Mailed: **6/23/2014**

CAP/sw

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]
[REDACTED]