

**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.: 14-003816
Issue No.: 3008
Case No.: ██████████
Hearing Date: July 2, 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 July 2, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Worker.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) allotment to the amount of \$40 effective July 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 May 1, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification of his home heat credit (HHC) or State Emergency Relief (SER) and his Low-Income Home Energy Assistance Act (LIHEAP) payment. See Exhibit 1, p. 4. The verifications were due back by May 12, 2014. See Exhibit 1, p. 4.
3. Claimant did not submit the verifications by the due date.

4. On May 23, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were reduced to \$40 effective July 1, 2014. See Exhibit 1, pp. 5-6.
5. On May 23, 2014, the Notice of Case Action also indicated that Respondent did not receive the heat/utility standard, but did receive a telephone standard. See Exhibit 1, p. 6.
6. On June 2, 2014, Claimant filed a hearing request, protesting his FAP reduction. 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.

In this case, Claimant is an ongoing recipient of FAP benefits. On May 23, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were reduced to \$40 effective July 1, 2014. See Exhibit 1, pp. 5-6. On June 2, 2014, Claimant filed a hearing request, protesting his FAP reduction. See 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 July 2014 FAP budget for review from the Notice of Case Action dated May 23, 2014. See Exhibit 1, pp. 5-6. The Department calculated a gross unearned income amount of \$771. See Exhibit 1, p. 9. This amount comprised of Claimant's Social Security Administration benefits (Retirement, Survivors, and Disability Insurance), which he did not dispute. See BEM 503 (January 2014), p. 28.

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 \$620. RFT 255 (December 2013), p. 1 and see Exhibit 1, p. 6.

The Department also calculated Claimant's housing costs to be \$400, which he did not dispute. See Exhibit 1, p. 6. Claimant testified that his rent includes heat, electricity, and water. Moreover, Claimant testified that he did submit a redetermination on or around May 2014. Claimant also indicated that he received FAP benefits in February 2014. Finally, Claimant testified that at one time he received FAP benefits in the amount of \$189 and then it was reduced to \$70. On May 1, 2014, the Department sent Claimant a VCL requesting verification of his HHC or SER and his LIHEAP payment. See Exhibit 1, p. 4. The verifications were due back by May 12, 2014. See Exhibit 1, p. 4. The Department did not receive any verifications by the due date. Claimant testified that he did not submit the verifications by the due date. Claimant testified that he believed the VCL was regarding utilities and that he did not have such a bill, therefore, he did not submit the verification.

For groups with one or more SDV members, the Department uses excess shelter. See BEM 554 (May 2014), p. 1. 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. 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 the Claimant's testimony, it appeared at first the Department improperly calculated his FAP benefits because he received the h/u standard on or before February 7, 2014. See BEM 554, p. 15. Moreover, Claimant testified that he submitted a redetermination in May 2014. Thus, policy indicated that Claimant should have received the h/u standard 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. See BEM 554, p. 15. However, Claimant admitted during the hearing that his rent includes

heat, electricity, and water. As such, Claimant is not eligible for the h/u standard and it is harmless error by the Department not to continue to budget Claimant's h/u standard.

FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless one of the following apply:

- They are billed for excess heat payments from their landlord.
- They have received the home heating credit (HHC) in an amount greater than \$20 in the current month or in the immediately preceding 12 months.
- They received either: (1) a Low-Income Home Energy Assistance Act (LIHEAP) payment; or (2) a LIHEAP payment was made on their behalf. Either payment must be in an amount greater than \$20 in the current month or in the immediately preceding 12 months. NOTE: LIHEAP payments may include SER energy related payments or MEAP payments.

BEM 554, p. 17. Also, FAP groups whose electricity is included in their rent or fees are not eligible for the h/u standard unless their landlord bills them separately for cooling. BEM 554, p. 18.

In this case, it appeared that Claimant testified that he received the HHC in an amount greater than \$20 in the current month or in the immediately preceding 12 months. Thus, Claimant would be eligible for the h/u standard even though his heat is included in the rent. However, the Department did request verification of the HHC on May 1, 2014 and Claimant did not respond to the verification. See Exhibit 1, p. 4. Nevertheless, the evidence presented that Claimant did not meet any of the exceptions to receive the h/u standard when his heat and electricity are included in his rent. Ultimately, Claimant is not eligible for the h/u standard because his rent includes heat, electricity, and water. See BEM 554, pp. 14-18. Therefore, the Department properly did not include an h/u standard for his FAP benefits effective July 1, 2014.

Also, Claimant did not dispute that he has telephone expenses. RFT 255 indicates the standard deduction for telephone expenses is \$34. See RFT 255, p. 1 and BEM 554, pp. 20-21. Therefore, the Department properly included Claimant's telephone deduction amount of \$34. See Exhibit 1, p. 6.


Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the telephone credit; this amount is found to be \$434. Then, the Department subtracts the total shelter amount from fifty percent of the \$620 adjusted gross income. Fifty percent of the adjusted gross income is \$310. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$124.

The Department then subtracts the \$620 adjusted gross income from the \$124 excess shelter deduction, which results in a net income of \$496. See Exhibit 1, p. 6. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$40 effective July 1, 2014. RFT 260 (December 2013), p. 7.

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 acted in accordance with Department policy when it properly calculated Claimant's FAP benefits in the amount of \$40 effective July 1, 2014.

Accordingly, the Department's FAP decision is AFFIRMED.


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

Date Signed: **7/3/2014**

Date Mailed: **7/3/2014**

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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