

**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.: 14-005411
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 24, 2014
County: WAYNE- 41 (FORT WAYNE)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, July 24, 2014. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████.

ISSUE

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits 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 was an ongoing FAP recipient.
2. Claimant notified the Department that his utilities were included in his rent payment.
3. On June 4, 2014, the Department sent a Notice of Case Action to Claimant informing him that his FAP benefits would be reduced from \$189.00 to \$37.00 effective July 1, 2014.
4. On June 23, 2014, the Department received Claimant's written Request for Hearing protesting the reduction in 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.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1, 2. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. BEM 500, p. 4. A group's monthly benefits are based in part, on a prospective income determination. BEM 505 (July 2013), p. 1. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 1. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505, pp. 7, 8. Bi-weekly amounts are converted to a monthly amount by multiplying the amount by 2.15. BEM 505, pp. 7, 8.

In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554, p. 4. Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment and they are not otherwise required to pay. BEM 554, p. 17.

In this case, Claimant's FAP budget was thoroughly reviewed during the hearing. The Department correctly calculated Claimant's income of \$755.00/month from Supplemental Security Income (SSI), Retirement, Survivors, Disability Insurance (RSDI) income, and the quarterly supplement. The major difference in Claimant's budget was the removal of the heat and utility standard which reduced Claimant's excess shelter deduction from \$651.00 to \$98.00. Claimant confirmed that he does not separately pay for heat and utilities, therefore the removal of the Heat and Utility Standard was proper.

In further review of the budget, Claimant questioned why medical expenses (Part B premiums since 2010) were not included as a medical expense. Claimant has been paying the Medicare premiums since 2010. Medicare premiums are allowable medical expenses. BEM 554, p. 10. It was explained that the inclusion of the expense will not have a significant impact on Claimant's FAP allotment and that the main reason for the decrease was due to the proper removal of the Heat and Utility Standards. Ultimately,

because Medicare premiums were not considered, the Department's calculation of Claimant's FAP allotment is not correct.

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 failed to include Claimant's Medicare premiums as a medical expense when determining the FAP allotment.

DECISION AND ORDER

Accordingly, the Department's 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. Recalculate Claimant's FAP budget as of July 1, 2014, to include medical expenses, in accordance with Department policy.
2. Notify Claimant in writing of the FAP determination.
3. Supplement for lost benefits that Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/1/2014**

Date Mailed: **8/1/2014**

CMM/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]