

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009162
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 8, 2014
County: WAYNE-49

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 08, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP) 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. The Claimant was an ongoing recipient of Food Assistance Benefits.
2. The Department issued a Notice of Case Action on July 22, 2014 decreasing the Claimant's FAP benefits to [REDACTED] per month.
3. The Claimant receives RSDI in the amount of [REDACTED] per month. The Claimant also pays child support in the amount of [REDACTED] which was included as a FAP expense.
4. The Claimant's rent was [REDACTED]. The Claimant does not pay for heat or electricity but does have a phone bill that the Department included in the FAP budget in the amount of [REDACTED].
5. The Claimant requested a hearing on August 8, 2014 protesting the reduction of his 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.

Additionally, the Claimant requested a hearing regarding the Department's reduction of his food assistance. The FAP Budget was presented and reviewed at the hearing. The following facts were established; the Claimant receives RSDI in the amount of [REDACTED] monthly and also pays child support in the amount of [REDACTED]. The Claimant was given a Medical Expense of [REDACTED], which appeared to be incorrect. The Department thought that the Claimant paid a Medicaid Part B premium in the amount of \$ [REDACTED] which would have explained the expense. However, when [REDACTED] is deducted from the Part B premium the result is [REDACTED] NOT [REDACTED]. BEM 554 (10/14) requires that all medical expenses be reduced by \$ [REDACTED]. The math regarding the Part B premium expense was not correct.

Next, the Department determined that the Claimant's Part B premium was paid by the Department. If correct, based upon this evidence, the Medical Deduction of expenses was not correct. Thus, the Department did not demonstrate that it properly calculated the FAP benefits because either the medical expenses were improperly calculated, or the Part B premium was being paid by the Department, and thus could not be counted as a medical expense or cost to the Claimant.

Finally, due to a change in Department policy, the Department no longer automatically includes a utility allowance of [REDACTED], whether utilities are paid for by the Claimant or not. As a result, the Claimant's housing cost were correctly reduced by this amount, thus causing a reduction of his FAP benefits, because more of the Claimant's unearned income was counted because the housing expenses were less by [REDACTED].

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it could not explain the medical expense calculation amount it included of [REDACTED] due to incorrect math; and/or whether the expense was appropriate due to the fact that it appeared that the Department was paying the Claimant's Medicaid Part B expense.

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. The Department shall recalculate the Claimant's FAP benefits and determine whether or not the Claimant's Medicaid Part B premium of \$ [REDACTED] is paid by the Department or the Claimant.
2. The Department shall provide the Claimant a Notice of Case Action explaining the correct benefit amount.



Lynn M. Ferris

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

Date Signed: September 9, 2014

Date Mailed: September 9, 2014

LMF/tm

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:

