

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-010069
Issue No.: 2000; 3008
Case No.: ██████████
Hearing Date: September 18, 2014
County: WAYNE-DISTRICT 19
(INKSTER)

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 September 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective July 10, 2014, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 10, 2014, Claimant applied for FAP benefits. See Exhibit 1, pp. 4-25. In the application, Claimant indicated he received monthly Social Security benefits, medical expenses, and shelter expenses (housing/heat/electricity/telephone). See Exhibit 1, pp. 18-20.
2. On July 11, 2014, the Department sent Claimant a Verification Checklist (VCL), which was due back by July 21, 2014. See Exhibit 1, pp. 42-43. The VCL requested verification of Claimant's home rent, checking account, non-heat electricity expense, and heat expense. See Exhibit 1, pp. 42-43.
3. Claimant did not submit the verifications before the due date.

4. On July 24, 2014, Claimant submitted verification of his \$900 monthly shelter expenses and bank accounts. See Exhibit 1, pp. 45-50.
5. On July 24, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$10 for the time period of July 10, 2014 to July 31, 2014 (prorated) and \$15 for August 1, 2014, ongoing. See Exhibit 1, pp. 37-39.
6. On August 4, 2014, Claimant requested a hearing, disputing his FAP allotment and Medical Assistance (MA) benefits. 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.

☒ The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

On August 4, 2014, Claimant also requested a hearing, disputing his MA benefits. See Exhibit 1, p. 3. However, Claimant testified his dispute with the MA benefits was in regards to the Department's failure to consider his ongoing medical expenses as deductions. The Department can consider medical deductions in the FAP calculation. Due to the discovery of this information, Claimant testified that he was only disputing his FAP benefits. As such, Claimant's MA hearing request is DISMISSED. This hearing will address if whether the Department properly calculated Claimant's medical deduction.

FAP benefits

On July 10, 2014, Claimant applied for FAP benefits. See Exhibit 1, pp. 4-25. On July 24, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$10 for the time period of July 10, 2014 to July 31, 2014 (prorated) and \$15 for August 1, 2014, ongoing. See Exhibit 1, pp. 37-39. On August 4, 2014, Claimant requested a hearing, disputing his FAP allotment. 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 July 24, 2014. See Exhibit 1, pp. 38-39. The Department calculated a gross unearned income amount of \$1,514. See Exhibit 1, p. 38. This amount comprised of Claimant's Social Security Administration benefits (Retirement, Survivors, and Disability Insurance), which he did not dispute. See BEM 503 (July 2014), pp. 28-33 and Exhibit 1, pp. 31-33.

Then, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (December 2013), p. 1 and see Exhibit 1, p. 38.

The Department then calculated Claimant's medical expenses to be \$70. See Exhibit 1, p. 38. For groups with one or more SDV member, the Department allows medical expenses that exceed \$35. BEM 554 (May 2014), p. 1. Claimant paid for his Medicare Part B premium in the amount of \$104.90, which resulted in medical expense of \$70 (\$105 minus \$35 disregard). See Exhibit 1, p. 33.

However, Claimant testified that he had additional ongoing medical expenses. Claimant testified that he has monthly prescription co-pays that range from \$80-\$100 as well as medical assistance home care and transportation to and from the doctor and pharmacy. See Exhibit 1, p. 3. On or around mid-July 2014, Claimant testified that he submitted his medical expenses at the local DHS office and it appeared he signed the log book. Claimant did not provide copies of his submitted medical bills at the hearing. The Department testified that it never received any submitted medical expenses.

A review of Claimant's application indicated that he notated medical expenses. See Exhibit 1, p. 20. Furthermore, a review of Claimant's VCL dated July 11, 2014, found that the Department did not request verification of his medical expenses. The Department, though, testified it verbally requested that Claimant submit medical expenses during the FAP telephone interview on July 11, 2014. Claimant testified that he could not recall the telephone interview and/or the verbal request to submit medical documentation.

The Department considers only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554, p. 9. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an

increase in benefits. BEM 554, p. 11. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's medical expense deduction. Even though Claimant did not provide documentary evidence of his alleged medical expenses, the Department failed to properly request Claimant's medical expenses in accordance with Department policy. Claimant clearly indicated in his application that he had medical expenses. See Exhibit 1, p. 20. However, the Department failed to request verification of medical expenses on the VCL dated July 11, 2014. See Exhibit 1, p. 43. As such, the Department will initiate verification of Claimant's medical expenses to affect the benefit period of July 10, 2014, ongoing. BAM 130, p. 3 and BEM 554, p. 11.

It should be noted that Claimant could not confirm receipt of the VCL. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the above information, it is found that Claimant failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the VCL to the Claimant. See Exhibit 1. Moreover, the Department did not receive any returned mail. Nevertheless, the Department still failed to properly request medical expenses via the VCL in accordance with Department policy.

Additionally, the Department calculated Claimant's housing expenses to be zero. See Exhibit 1, p. 38. In the application, Claimant indicated that his monthly shelter expenses were \$900. See Exhibit 1, p. 20. On July 24, 2014, Claimant submitted verification of his \$900 monthly shelter expenses and bank accounts. See Exhibit 1, pp. 45-50. However, the Department testified that the shelter expenses were dismissed as late because they were submitted after the VCL due date. The Department testified that it did not apply the shelter expenses to ongoing FAP budgets because they were submitted late.

Claimant testified that he could not recall if he submitted the shelter expenses on July 24, 2014. However, the evidence packet only indicated shelter expenses were received on July 24, 2014.

For groups with one or more SDV member, the Department uses excess shelter. BEM 554, p. 1. The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department removes the old expense until the new expense is verified. BEM 554, p. 14.

For FAP benefits, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6. If verification is returned late, the increase must affect the month after verification is returned. BAM 220, p. 6.

Based on the above information, the Department will apply Claimant's \$900 in shelter expenses to affect his August 1, 2014, ongoing benefits. The evidence presented that the shelter verification was returned late on July 24, 2014. As such, Claimant's increase must affect the month after verification is returned. BAM 220, p. 6. Because Claimant submitted his shelter verification in July 2014, the increase would affect his benefits for August 2014 (the month after verification is returned). BAM 220, p. 6.

Next, the Department calculated Claimant's heat/utility (h/u) standard to be zero. See Exhibit 1, p. 38. In the application, Claimant indicated that he has heat and electricity expenses. See Exhibit 1, p. 20. The Department properly requested verification of Claimant's heat and electricity expenses on July 11, 2014. See Exhibit 1, pp. 42-43. However, the Department testified that Claimant did not submit any verification. Claimant, though, again testified that he submitted verifications of his electrical bill with his medical expenses (on or around mid-July 2014). Claimant testified that the electrical bill is in his landlord's name, but contains Claimant's address and that he pays his landlord. Claimant did not provide proof of the alleged submission. Claimant testified that he had an e-mail from his landlord confirming his electricity expenses, but the e-mail appears to be dated in September 2014.

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. RFT 255 indicates that the h/u standard deduction amount is \$553. See RFT 255, p. 1. Effective May 1, 2014, when processing 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 and will be required to provide verification once the systems changes are completed on May 1, 2014. BEM 554, p. 15.

Based on the foregoing information, the Department properly calculated Claimant's h/u standard to be zero. The evidence presented that the Department properly requested Claimant's heat and electricity expense and the Claimant failed to submit the necessary verifications. Claimant can still submit verification of his heat and electricity expenses to the Department, which would then possibly result in Claimant having the \$553 h/u standard applied to future benefit periods.

Finally, the Department properly applied Claimant's \$34 telephone standard deduction. See Exhibit 1, p. 38. Claimant indicated in his application that he had telephone expenses. See Exhibit 1, p. 20. RFT 255 states that the telephone deduction amount is \$34. See RFT 255, p. 1. For telephone standards, the Department does verify the telephone expense, unless questionable. BEM 554, pp. 20-21.

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 benefits effective July 10, 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. Initiate verification of Claimant's medical expenses to affect the benefit period of July 10, 2014, ongoing, in accordance with Department policy; and
2. Apply Claimant's \$900 in verified shelter expenses to affect his August 1, 2014, ongoing FAP benefits.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated August 4, 2014) is DISMISSED.


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

Date Signed: **9/26/2014**

Date Mailed: **9/26/2014**

EJF / cl

