

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 14-010191
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 15, 2014
County: Wayne (19-Inkster)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on October 15, 2014, from Inkster, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]
[REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]
[REDACTED]

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for July 1, 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 1, 2014, Claimant applied for FAP benefits.
2. On July 22, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was eligible for monthly FAP benefits of \$15 effective July 1, 2014.
3. On July 28, 2014, Claimant requested a hearing disputing the Department's action.

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, on July 22, 2014, the Department sent Claimant a Notice of Case approving her for \$15 in monthly FAP effective July 1, 2014. Claimant disputed the calculation of her monthly FAP benefits.

The Department presented a FAP net income budget showing the calculation of Claimant's FAP benefits for July 1, 2014, ongoing that was reviewed with Claimant at the hearing. The budget showed unearned income of \$735, which the Department testified was the sum of (i) Claimant's \$721 monthly Supplemental Security Income (SSI) and (ii) her \$14 State SSI Payment (SSP) (based on her receipt of \$42 quarterly). Claimant confirmed receiving \$721 SSI monthly but was uncertain of the SSP benefits. Under Department policy, the Department issues SSP to SSI recipients when the client's SOLQ [the Department's data exchange with the Social Security Administration (SSA)] shows that the client was issued SSI as a recurring payment dated the first of the month. BEM 660 (July 2013), p. 1. In this case, Claimant's SOLQ report showed that Claimant's monthly SSI payments were recurring payments dated the first of the month. Additionally, the Department presented a consolidated inquiry, a data report that retrieves information concerning clients from State of Michigan databases, showing that, at the time the inquiry was run in August 2014, Claimant received a quarterly SSP payment on June 11, 2014. Therefore, the Department established that Claimant received a \$14 monthly SSP payment, based on quarterly SSP payments of \$42, and properly considered this payment in calculating Claimant's gross monthly income. BEM 660, pp. 1-2; BEM 503 (July 2014), p. 33. Based on the evidence presented, the Department acted in accordance with Department policy when it calculated Claimant's gross monthly unearned income of \$735.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of her FAP group and, based on her receipt of SSI and her age, is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.

- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (May 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and confirmed that she had no dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, or child support expenses. Based on her one-person group size, the Department properly applied the \$151 standard deduction. RFT 255 (December 2013), p. 1. The Department testified that Claimant had not verified any out-of-pocket medical expenses over \$35, and Claimant's SOLQ shows that the State pays her Part B Medicare premium. Because there was no evidence that Claimant had any medical expenses presented to the Department at the time of application, the Department properly excluded any medical deduction. During the hearing, Claimant raised the issue of what expenses are eligible for the medical deduction; Claimant is referred to BEM 554, pp. 10-11.

In calculating a client's excess shelter deduction, the Department considers the client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. The utility standard that applies to a client's case is dependent on the client's circumstances. The mandatory heat and utility (h/u) standard, which is currently \$553 and the most advantageous utility standard available to a client, is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his or her behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have **any** responsibility for heating/cooling expense. BEM 554 (May 2014), pp. 16-19; RFT 255 (December 2013), p. 1. To show responsibility for heating and/or cooling expenses, acceptable verification sources include, but are not limited to, current bills or a written statement from the provider for heating/cooling expenses or excess heat expenses; collateral contact with the landlord or the heating/cooling provider; cancelled checks, receipts or money order copies, if current, as long as the receipts identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense; DHS-3688 shelter verification; or a current lease. BEM 554, pp. 16-19.

FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19. These include the non-heat electric standard (currently \$127) if the client has no heating/cooling expense but has a responsibility to pay for non-heat electricity; the water and/or sewer standard (currently \$74) if the client has no heating/cooling expense but has a

responsibility to pay for water and/or sewer separate from rent/mortgage; the telephone standard (currently \$34) if the client has no heating/cooling expense but has a responsibility to pay for traditional land-line service, cell phone service, or voice-over-Internet protocol; the cooking fuel standard (currently \$43) if the client has no heating/cooling expense but has a responsibility to pay for cooking fuel separate from rent/mortgage; and the trash removal standard (currently \$14) if the client has no heating/cooling expense but has a responsibility to pay for trash removal separate from rent/mortgage. BEM 554, pp. 19-24; RFT 255, p. 1.

In calculating Claimant's excess shelter deduction, the Department testified that it considered Claimant's \$137 monthly rental obligation, which Claimant verified. In her July 1, 2014, FAP application, Claimant did not identify responsibility for any utility expenses. Based on the information Claimant provided at the time of application, the Department properly concluded that Claimant was not eligible for the mandatory h/u standard or any individual utility standards. A review of Claimant's budget shows that, based on her monthly shelter expenses, Claimant was not eligible for an excess shelter deduction.

Evidence at the hearing established that, with her hearing request, Claimant submitted verification of telephone and electrical expenses and the Department testified that it adjusted future FAP budgets. Because those actions took place after Claimant's hearing request was filed, they are not properly presented for consideration in this hearing decision. Claimant's daughter also contended that Claimant was responsible for excess heat expenses. She was advised to provide verification to the Department to affect future FAP benefits.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly reduced Claimant's gross income of \$735 by the \$151 standard deduction, resulting in monthly net income of \$784. Based on net income of \$784 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$15. BEM 556; RFT 260 (December 2013), p. 10.

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 calculated Claimant's FAP benefits for July 1, 2014, ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

ACE / pf

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]