

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-011585
Issue No.: 3008
Case No.: ██████████
Hearing Date: October 9, 2014
County: Wayne (31-Grandmont)

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, a 3-way telephone hearing was held on October 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, participating from the Department's Greydale office. Participants on behalf of the Department of Human Services (Department) included ██████████, participating from the Department's Redford office. ██████████ from the Department's Greydale office, was present in the hearing with Claimant but did not participate.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for March 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. Claimant was an ongoing recipient of FAP benefits.
2. In connection with a redetermination, the Department recalculated Claimant's FAP benefits.
3. On February 24, 2014, the Department sent Claimant a Notice of Case Action notifying him that, effective March 1, 2104, he was approved for monthly FAP benefits of \$127.

4. On April 14, 2014, Claimant filed a request for hearing disputing the Department's calculation 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, at the hearing, the information used by the Department to calculate Claimant's FAP budget was reviewed with Claimant. Claimant confirmed his monthly receipt of Supplemental Security Income (SSI) of \$721 and State SSI Payment (SSP) of \$14 (based on quarterly payments of \$42) and that he was the only member of his FAP group. His receipt of SSI established that he was a senior/disabled/veteran (SDV) member of his FAP group. BEM 550 (February 2014), p. 6. While Claimant testified that he had child support expenses and medical expenses in excess of \$35, deductions that would be available to him if verified, there was no evidence that he had advised the Department of his child support expenses or provided proof of any medical expenses. See BEM 554 (February 2014), p. 1. Therefore, the Department properly did not consider such expenses in calculating Claimant's FAP budget.

The primary issue with respect to Claimant's FAP budget was the shelter expenses. The Department testified that, at the FAP redetermination interview, Claimant indicated that he did not pay monthly rent but did pay property taxes on the home in which he resided. Based on Wayne County online property tax records it obtained showing that Claimant was the taxpayer at the home he identified as his residence, the Department testified that it took the \$1,639.26 for annual taxes on the property and divided it by 12 to arrive at monthly shelter expenses of \$116.67. It is noted that the annual tax amount divided by 12 is \$136.61. Therefore, even if the Department properly considered the property taxes on the home as Claimant's shelter expenses, it did not act in accordance with policy in calculating this figure.

Claimant disputed the Department's reliance on property taxes as his shelter obligation. He contended that his mother owned the home in which he lived, that she paid a mortgage on the home, which included escrow for property taxes, and that he paid her monthly rent of \$450, although he acknowledged that he was sometimes behind in payments to her. The Department acknowledged that Claimant submitted rent receipts

to evidence his monthly rent. Department policy provides that shelter expenses include rent and the expense does not have to be paid to be allowed. BEM 554, p. 12.

The Department testified that, because Claimant was the responsible party identified as the taxpayer on the Wayne County property tax records, and because he admitted that he prepared the rent receipts that his mother signed, it concluded that there were discrepancies regarding Claimant's shelter responsibilities and requested that Claimant's mother complete a shelter verification form, DHS-3688. The Department did not receive a completed shelter verification until September 30, 2014.

The Department has to give a client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (January 2014), p. 7. While Claimant did not have the shelter verification form sent to him completed until September 30, 2014, prior to that time, in response to the Department's inquiries concerning ownership of the home, he submitted a copy of a recorded quitclaim deed showing that his mother had owned the home in which he resided since 2001 and presented a printout dated April 1, 2014, from the Wayne County property records showing that his mother owned the property. Claimant's evidence was sufficient to establish that he was not the owner of the home in which he resided, supporting his testimony that he was not responsible for the taxes on the property. Claimant also presented rental receipts signed by his mother. Rental receipts are acceptable verification sources. BEM 554, p. 554.

At the hearing, the Department expressed concerns that the shelter verification form sent to Claimant's mother at a [REDACTED] address was returned as undeliverable, alluding to Claimant being elusive in the Department's attempts to obtain additional verification of Claimant's housing expenses. However, Claimant denied informing the Department that his mother lived [REDACTED] and it appears that the Department used the address identified as the mother's address in the 2001 quitclaim deed.

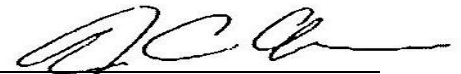
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not use Claimant's rental expenses in calculating his FAP budget.

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 monthly FAP budget for March 1, 2014, ongoing to include his monthly rental obligation;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2014, ongoing; and
3. Notify Claimant in writing of its decision in a DHS-1605, Notice of Case Action.



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

Date Signed: **10/13/2014**

Date Mailed: **10/14/2014**

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]