

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 14-017699
Issue No.: 3008
Case No.: ██████████
Hearing Date: January 12, 2015
County: WAYNE-19 (INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn 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 January 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Senior, Eligibility Specialist.

ISSUE

Did the Department properly reduce and calculate the Claimant's FAP benefits?

Did the Department properly close the Claimant's FAP case for October 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. The Claimant was an ongoing recipient of Food Assistance. In October 2014, the Department improperly closed the Claimant's food assistance case for failure to complete a redetermination. The Department conceded the closure was improper based upon failure to complete the redetermination at the hearing
2. The Claimant reapplied for food assistance benefits on November 10, 2014.
3. The Claimant received unearned income of ██████ per month for a pension and ██████ a month in RSDI from the Social Security Administration. The Claimant confirmed these amounts to be correct.

4. The Claimant lives in subsidized housing and does not pay heat or electricity expenses. The Claimant's rent was hundred and [REDACTED] per month at the time of his application in November 2014, as well as in October 2014. The Claimant also has a telephone expense of [REDACTED] Exhibit 5.
5. The Claimant requested a hearing on December 8, 2014 protesting the reduction of his food assistance 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, in this case the Department reduced the Claimant's food assistance benefits for several reasons presented at the hearing. The Department clearly demonstrated that prior food assistance benefits did not include the Claimant's unearned income from pension and Social Security benefits in the amount of [REDACTED] Exhibit 2. The Claimant completed a redetermination on October 22, 2014 wherein he disclosed his income correctly. Exhibit 1, p 4. The Claimant also reported his rent had not changed and that he paid child support in the amount of [REDACTED] per month. Exhibit 1, p. 4. Notwithstanding this reporting, the Department incorrectly calculated the benefits for November 2014 when the benefits were reduced to [REDACTED] per month. Exhibit 3. The Claimant's benefits are currently [REDACTED] per month and the benefit calculation for November was for the partial month only due to the Claimant's reapplying for benefits. In that budget for November, the Department did not include any child support deduction as required by BEM 554 (10/1/14) p.6, which provides:

Do not allow more than the legal obligation if the client is up-to-date on their child support payments. However, if they are behind and making arrearage payments, allow the total amount paid even if it exceeds the court-ordered amount. Current and arrearage child support expenses must be paid to be allowed.

In this case, the Claimant reported child support expenses of \$ [REDACTED] per month which was not considered by the Department therefore the Food Assistance budget as submitted is incorrect, assuming the Department can verify the actual payment of this expense. The other change in the November budget was that the Claimant no longer

received a heat in utility standard expense previously afforded to him as evidenced by a prior budget which included a heat in utility standard of \$ [REDACTED] per month, even though the Claimant did not have responsibility to pay these expenses. The prior budget also incorrectly did not include any income which was the reason the Claimant received the maximum amount of food assistance allowable for one individual or \$ [REDACTED] per month. Exhibit 2, p. 1-3.

The current budget as submitted which reduce the Claimant's food assistance to [REDACTED] per month was incorrect as previously referenced above due to failure to include child support payments, but did correctly afford a telephone standard expense of [REDACTED] per month and, based upon the Claimant's testimony at the hearing, did not include the heat and utility standard because the Claimant's rent includes the heat and utility expenses. This budget is correct except for the fact that it did not consider or include child support expenses.

Lastly, the Department conceded at the hearing that the previous caseworker improperly closed the Claimant's Food Assistance case for October 2014 incorrectly as the Claimant fully and completely completed his redetermination.

The policy changing the heat and utility standard changes and other utility allowances is explained below.

Effective May 1, 2014, the Department was required when processing applications, redeterminations or when a change was reported, to review and determine due to the changes making clients no longer automatically eligible for the heat and utility standard of [REDACTED], whether clients were still eligible to receive a heat and utility standard. These changes in Department policy applied to all food assistance recipients equally. Thereafter, the Department began to gradually implement this change, which in this case resulted in the Claimant seeing a decrease in his FAP. Changes in the Department policy caused in some cases a reduction in food assistance benefits after the removal of the automatic heat and utility standards previously applied to their food assistance budgets, as is the case in this hearing.

Changes to BEM 554 effective October 1, 2014 removed the automatic mandatory heat in utility standard. For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section. BEM 554 p. 15

As reviewed at the hearing, in calculating a Claimant's excess shelter deduction, the Department considers the client's monthly shelter expenses and any applicable utility standard for any utilities the client is responsible to pay. BEM 556 pp.4. Thus, the utility standard that applies to a client's case is dependent on the client's circumstances, the mandatory heat and utility standard, which is currently \$553 and is the most advantageous to utility standard available to the Claimant, (i.) is available only for FAP groups that are responsible for heating expenses separate from rent; (ii) responsible for cooling including room air conditioners and can verify they have the responsibility for nonheat electric; and (iii) whose heat is included in rent and fees if the client is billed for excess heat by the landlord; (iv) who have received the home heating credit (HHC) in an amount greater than \$20 in the current month or the immediately preceding 12 months; (v) who have received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf in an amount greater than \$20 in the current month or in the immediately preceding 12 months prior to the application/recertification month; (vi) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (vii) who have **any** responsibility for heating/cooling expense (based on shared meters expenses). BEM 554 (October 2014), pp. 16-20; RFT 255 (October 2014), p. 14-24.

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 closed the Claimant's food assistance case for October 2014 and miscalculated the Food Assistance for that month, and incorrectly calculated the Food Assistance benefits for November 1, 2014 ongoing, in that it did not include child support expenses paid.

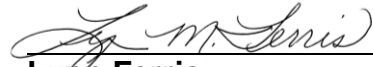
DECISION AND ORDER

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 reinstate the Claimant's Food Assistance case for October 2014 and shall recalculate the Food Assistance budget for that month in accordance with this Decision.
2. The Department shall issue a food assistance supplement, if any, that the Claimant is otherwise entitled to receive for October 2014.

3. The Department shall recalculate the benefits for November 2014 ongoing, and shall include child support expenses, if verifiable, and shall issue a supplement for benefits for the beginning of November 2014 not previously received by the Claimant due to the Department's improper closure of the Claimant's Food Assistance Case.



Lynn Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/15/2015**

Date Mailed: **1/15/2015**

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]