

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018319
Issue No.: 7002
Case No.: [REDACTED]
Hearing Date: March 4, 2015
County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 4, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED], Claimant's spouse, testified on Claimant's behalf and appeared as a translator. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], specialist, and [REDACTED], supervisor.

ISSUE

The issue is whether DHS properly determined Claimant's eligibility for a Supplemental Security Income (SSI) supplement.

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 SSI recipient.
2. Claimant was a married individual.
3. On [REDACTED], DHS mailed Claimant a State Supplement Payment Notice (Exhibit 1) informing Claimant that he was eligible for \$10.50/month (on average) in state-issued SSI payments.
4. On [REDACTED], Claimant requested a hearing to dispute the SSI payment.

CONCLUSIONS OF LAW

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a reduction in state-issued SSI eligibility. Claimant provided no legal arguments to oppose the reduction. DHS hearing representatives also provided no insight. DHS and the notice of SSI reduction (Exhibit 1) referenced a “new law” as responsible for the change in SSI. Zero details of the new law were provided.

DHS representatives reported that they were not responsible for processing the change in SSI. DHS representatives noted that an SSI unit available by telephone could better explain the reasoning for Claimant’s SSI supplement reduction. During the hearing, the SSI unit was called. After approximately 15 minutes spent on hold, the attempt to contact the SSI unit was halted. DHS policy will be considered to determine Claimant’s proper SSI supplement eligibility.

The amount of the state benefit varies by living arrangement. BEM 660 (7/2013), p. 1. It was not disputed that Claimant was a member of an independent living arrangement.

State SSI payment levels are found in RFT 248. *Id.* DHS lists the appropriate SSI payment in chart form (see RFT 248 (1/2014), p. 1.):

<u>SSI Living Arrangement</u>	<u>Federal SSI Pay</u>	<u>State SSI Pay</u>
Independent living / individual	\$721	\$14
Independent living / couple	\$1082	\$21(\$10.50 each)

It was not disputed that Claimant was a married individual. Plugging Claimant’s independent living status and married status in the above chart supports finding that DHS properly issued a \$10.50 SSI supplement to Claimant.

The second column of the above chart identifies federal SSI payment amounts. DHS did not have to include this column but chose to do so; thus, it must have some significance. It was not disputed that Claimant receives a combination of SSI and RSDI benefits. Claimant’s SSI portion was testified to be \$69. Claimant’s total Social Security Administration (SSA) issuance was testified to be approximately \$748. Because Claimant’s SSI amount is not listed on the above chart, no conclusion can be made concerning the proper amount of Claimant’s state-SSI supplement.

Turning to the third column, DHS is to give “\$21 (\$10.50 each)” for an independent living couple. “Each” implies that more than one person received SSI. This also lends support to interpreting “Independent living / couple” as a couple where both individuals receive SSI.

Claimant’s spouse testified that she received \$16/month in SSA income and \$0 in state-issued SSI. Claimant’s spouse testified that she received SSA income for being a caretaker of Claimant; this information was not helpful in determining the reason for the issuance or determining whether it was SSI or RSDI. If Claimant’s spouse received SSI, DHS would be strongly supported in issuing a \$10.50 state-issued SSI supplement to Claimant. DHS testimony conceded that Claimant’s spouse’s \$16/month SSA income was RSDI. Based on presented evidence, it is found that Claimant’s spouse does not receive SSI benefits. This finding supports a finding that Claimant is entitled to a \$14/month state-issued SSI supplement.

Based on the above considerations, there is insufficient evidence to conclude what amount Claimant is entitled to receive as state-issued SSI. DHS has the burden of proof to justify a reduction in eligibility. DHS failed to provide sufficient evidence of any laws or policy to justify a reduction to Claimant’s state-issued SSI eligibility.

It should be noted that Claimant requested a hearing on [REDACTED]. Claimant has 90 days to dispute a DHS action (see BAM 600). Thus, Claimant’s hearing request is tardy to dispute any issuances other than those made from the previous 90 days of the hearing request. The State Supplement Payment Notice (Exhibit 1) indicates that Claimant’s third quarter (7/2014-9/2014) payment was issued on [REDACTED]. Claimant was tardy on disputing the third quarter SSI payment. Claimant is only entitled to a supplement beginning the fourth quarter of 2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to justify a reduction in Claimant’s state-issued SSI eligibility. It is ordered that DHS issue \$14/month (on average) in supplemental SSI payments to Claimant, effective the period of 9/2014-12/2014.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/13/2015**

Date Mailed: **3/13/2015**

CG / hw

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:

