

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201416350
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 18, 2014
County: Wayne (76)

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 telephone hearing was held on February 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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. On December 3, 2013, Claimant filed a request for hearing disputing the Department's calculation of her 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

Additionally, Claimant requested a hearing disputing the Department's calculation of her monthly FAP benefits. The Department failed to provide a FAP budget or the relevant November 26, 2013 Notice of Case Action tied into Claimant's hearing request. Therefore, there was no documentary evidence to support the Department's calculation of Claimant's FAP allotment. At the hearing, the Department testified regarding the figures and information it used to calculate Claimant's FAP benefits.

The evidence at the hearing established that Claimant had \$784 in gross monthly Retirement Survivors and Disability Insurance (RSDI) income and \$615.28 in gross monthly pension income. Claimant is the only member of her FAP group. Because she is over age 65, Claimant is a senior/disabled/veteran (SDV) member of her household. See BEM 550 (July 2013), p. 1. Based on this information, she was eligible for the following deductions from her gross income under Department policy:

- a standard deduction of \$151 based on her one-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction that takes into account Claimant's monthly housing expenses of \$64.25 based on her \$771 annual property taxes, which Claimant confirmed was accurate, and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size (RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

The only issue presented at the hearing was the amount of Claimant's medical expenses. Claimant presented evidence that she had a monthly \$104.90 Part B Medicare premium and that the following health insurance premiums were deducted from her monthly pension benefits: \$241.16 for BlueCare Network premiums, \$15.04 for dental benefits, and \$1.07 for vision benefits. Health and hospitalization policy premiums and Medicare premiums are allowable medical expenses for FAP purposes. BEM 544, pp. 9-10.

Based on the verified health insurance premiums, Claimant was eligible for a medical expense deduction to her FAP budget totaling \$327.17 (the sum of the listed premiums less the \$35 threshold). Because the Department failed to provide a budget or the relevant Notice of Case Action, it could not identify the amount, if any, of the medical expense deduction Claimant received. While the Department testified that it could not be responsible for medical expenses that Claimant had not identified to the Department,

the Department's argument that it was not aware of the expenses is without merit. The Department could access Claimant's Part B premium from the Single Online Query (SOLQ) report it would run to verify her RSDI benefits. See BEM 554, p. 12. Also, Claimant credibly testified that she provided a pension statement to verify her pension benefit. The statement, which the evidence provided showed would be provided in connection with a November 1, 2013, increase in benefits, identifies the health insurance premiums on its face.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits.

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 FAP benefits to include verified medical insurance premiums identified herein from November 1, 2013 ongoing;
2. Notify Claimant in writing of its decision; and
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2013 ongoing.



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

Date Signed: February 24, 2014

Date Mailed: February 24, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order.

MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

ACE/tlf

cc:

