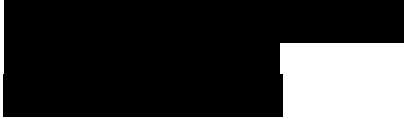


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No.: 2014-26327  
Issue No(s): 3008  
Case No.: [REDACTED]  
Hearing Date: March 6, 2014  
County: Wayne (18)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist, and [REDACTED], Assistant Payment Supervisor.

**ISSUES**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$92 effective March 1, 2014, ongoing?

Did the Department properly process Claimant's change report (shelter expenses)?

**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 is an ongoing recipient of FAP benefits.
2. On December 23, 2013, Claimant submitted a land contract agreement and a 2013 winter tax statement with a State Emergency Relief (SER) application. See Exhibit 1.
3. On January 21, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$92 effective March 1, 2014, ongoing. See Exhibit 1.

4. On January 31, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1.

### **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.

In this case, Claimant is an ongoing recipient of FAP benefits. On January 21, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$92 effective March 1, 2014, ongoing. See Exhibit 1. Claimant testified that she is disputing the reduction of her FAP benefits effective March 1, 2014, ongoing.

It was not disputed that the certified group size is one and that Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the March 2014 FAP budget for review. See Exhibit 1. The Department calculated Claimant's gross unearned income to be \$735. See Exhibit 1. This amount consisted of Claimant's \$721 Supplemental Security Income (SSI) income and \$14 monthly State SSI Payments (SSP). Claimant did not dispute this amount. See BEM 503 (January 2014), pp. 32-33 and RFT 248 (January 2014), p. 1.

The Department then properly applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (December 2013), p. 1. The budget also indicated zero in medical deductions, however, Claimant testified that she does have medical expenses. Claimant testified that she believed to have reported her medical expenses. Claimant testified that her medical expenses consisted mostly of monthly prescription costs. Claimant testified that she has not notified the Department of these expenses for some time due to her medical conditions. Moreover, Claimant did not present any medical expenses at the hearing or to the Department. The Department testified that it did not have any verification of her medical expenses.

For groups with one or more SDV member, the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (July 2013), p. 1. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 8.

A list of allowable expenses are located in BEM 554. BEM 554, pp. 9-11. The Department estimates an SDV person's medical expenses for the benefit period. BEM

554, p. 11. The expense does not have to be paid to be allowed. BEM 554, p. 11. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department allows only the non reimbursable portion of a medical expense. BEM 554, p. 11. The medical bill cannot be overdue. BEM 554, p. 11.

Finally, the Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11.

Based on the foregoing information, the Department properly did not include any medical deductions for the Claimant effective March 1, 2014, ongoing. Claimant failed to present any evidence that she either reported or provided documentation of her ongoing medical expenses. The Department provided credible testimony that it did not receive any verification and/or report of medical expenses. Moreover, Claimant even testified that she has not provided or reported her medical expenses for some time. Thus, the Department properly did not include any medical deductions in accordance with Department policy. See BEM 554, p. 1 and 8-11.

The Department then properly calculated Claimant's adjusted gross income of \$584 (\$735 total income minus \$151 standard deduction). See Exhibit 1.

Finally, the Department presented an excess shelter budget for March 2014, which indicated Claimant's monthly housing expense is \$0. See Exhibit 1. Claimant disputed this amount. Based on Claimant's testimony, it appeared that her monthly housing expense was approximately \$333. These housing expenses comprised of Claimant's \$300 monthly rent and 2013 winter tax statement (\$396.15 total tax statement divided by 12 months results in a \$33 monthly winter tax obligation). See Exhibit 1. It should be noted that Claimant testified that she also submitted a summer tax statement on February 14, 2014. However, the summer tax statement is not applicable in this hearing as it was submitted subsequent to her hearing request and will not be considered. See BAM 600 (March 2014), pp. 4-6.

On December 23, 2013, Claimant submitted a land contract agreement and a 2013 winter tax statement with a SER application. See Exhibit 1. The Department testified that it questioned the land contract agreement as it did not leave any contact numbers of the seller. A review of the alleged land contract states that Claimant and an additional member will purchase the property for \$10,000 with a \$7,500 down payment, followed by monthly \$300 payments until the balance is paid off. See Exhibit 1. Moreover, Claimant is also responsible for all utilities, include city tax and this formed was signed on July 1, 2013. See Exhibit 1. The Department testified that it attempted to verify the land contract agreement with the local government shortly after receiving the verification; however, it did not discover any such agreement.

Additionally, the Department also questioned the winter tax statement because the name identified on the statement contained the seller and not the Claimant. See Exhibit 1. The statement only had a notation that Claimant and the additional member were responsible for the winter taxes per the land contract. See Exhibit 1. In summary, the Department basically questioned both the land contract and winter tax statement as it was unable to verify the information submitted.

Claimant testified that she submitted this form shortly after signing it and on December 23, 2013, with the SER application. Claimant, though, did not present any evidence that she submitted the land contact on or around July 2013. The Department testified that it subsequently mailed Claimant a shelter verification form on February 7, 2014 and received a response on February 14, 2014. However, as stated previously above, this occurred after Claimant's hearing request and will not be considered in this hearing decision. See BAM 600, pp. 4-6.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Shelter expenses are allowed when billed. BEM 554, p. 12. The expenses do not have to be paid to be allowed. BEM 554, p. 12. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, pp. 12-13. Also, property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13.

The Department verifies a shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14. Acceptable verification sources are located in BEM 554. BEM 554, p. 14.

Clients must report other changes within 10 days after the client is aware of them. BAM 105 (January 2014), p. 10. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 10. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (January 2014), p. 6.

Finally, before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his/her statements and information from another source. BAM 130 (January 2014), p. 7. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department sends a Verification Checklist (VCL) and/or a Shelter Verification. See BAM 130, p. 3.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's shelter expenses effective March 1, 2014, ongoing, in accordance with

Department policy. The Claimant properly submitted shelter verifications forms on December 23, 2013. Moreover, the Department presented credible testimony that it questioned the shelter verifications submitted shortly after receiving the documentation. However, the Department never sent Claimant a VCL or shelter verification within the reporting requirements to resolve the discrepancy. See BAM 130, pp. 3 and 7 and BAM 220, p. 6. As stated above, the Department sent a verification form on February 7, 2014; however, this is subsequent to the hearing request and will not be addressed in this hearing decision. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his/her statements and information from another source. BAM 130, p. 7. There is clearly a shelter discrepancy present as the Department questions the submitted forms. Subsequent to this discrepancy, the Department should have given the Claimant a reasonable opportunity to resolve the discrepancy by sending, for example, a VCL or shelter verification form. Thus, the Department will recalculate Claimant's FAP benefits effective March 1, 2014, ongoing and reinitiate verification of Claimant's shelter expense discrepancy (i.e., send Claimant a VCL and/or shelter verification form), in accordance with Department policy. BAM 130, pp. 3 and 7; BAM 220, pp. 6-7; and BEM 554, p. 14.

It should be noted that the Department properly applied Claimant's utility standard of \$553, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. See RFT 255, p. 1.

### **DECISION AND ORDER**

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 improperly calculated Claimant's FAP benefits in the amount of \$92 effective March 1, 2014, ongoing.

Accordingly, the Department's FAP 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. Begin recalculating the FAP budget for March 1, 2014, ongoing, in accordance with Department policy;
2. Reinitiate verification of Claimant's shelter expense discrepancy (i.e., request a VCL (DHS-3503) and/or Shelter Verification (DHS-3688)) and in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 1, 2014, ongoing; and

4. Notify Claimant in writing of its FAP decision in accordance with Department policy.



**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: March 10, 2014

Date Mailed: March 10, 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

EJF/tlf

2014-26327/EJF

cc:

