

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016070
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: January 5, 2015
County: Macomb (36)

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, an in-person hearing was held on January 5, 2015 from Sterling Heights, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's translator. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUES

The first issue is whether DHS properly reduced Claimant's Food Assistance Program (FAP), effective 12/2014.

The second issue is whether Claimant was entitled to receive an over-issuance of FAP benefits due to a timely hearing request.

The third issue is whether DHS supplemented Claimant for \$121 in FAP benefits.

The fourth issue is whether Claimant is entitled to \$10,000 for pain and suffering.

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 FAP benefit recipient.
2. Claimant was a member of a 1-person FAP group with a monthly unearned income of \$735/month.

3. Claimant was responsible for paying \$300/month in rent.
4. Claimant was not responsible for paying any utilities.
5. On [REDACTED], DHS issued a supplement of \$121 in FAP benefits to Claimant.
6. Claimant was a resident of a home where he paid \$300/month and all utilities were included with Claimant's rent.
7. On [REDACTED], DHS mailed a Notice of Action (Exhibits 1-4) informing Claimant of a reduction in FAP eligibility, effective 12/2014, to \$22/month.
8. On 1 [REDACTED], Claimant requested a hearing to dispute the reduction of FAP benefits.
9. On [REDACTED], Claimant requested a hearing to dispute an alleged failure by DHS to supplement Claimant \$121 in FAP benefits (see Exhibit A2).
10. On a subsequent date, Claimant requested \$10,000 for anguish related to FAP benefit eligibility difficulties.

CONCLUSIONS OF LAW

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. 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 testified that he did not technically request a hearing. Claimant testified that he wrote a complaint letter to a DHS Lansing-based office. The DHS Lansing office reasonably interpreted Claimant's letter of complaint as a request for hearing. Claimant's complaint letter expressed displeasure concerning a reduction of FAP benefits, effective 12/2014.

DHS provided testimony that Claimant's FAP eligibility was affected by a state-wide policy change. Before 12/2014, DHS gave maximum utility credits to all FAP recipients. Beginning 12/2014, DHS only gave utility credits for utilities paid by benefit recipients. Though the DHS testimony provides an explanation for the reduction in FAP benefits,

the explanation does not verify that DHS issued the proper FAP benefit amount to Claimant for 12/2014. BEM 556 outlines how to determine FAP eligibility.

Claimant testified that he received \$721/month in SSI benefits. Claimant testified that he received additional quarterly checks but he was unsure of the amount. DHS provided testimony that Claimant received \$42/3 months (\$14/month) in Michigan-issued SSI benefits. The DHS testimony was credible. Claimant's FAP benefit group income is found to be \$735/month.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant was a senior person.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Claimant had no day care, medical, or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$154. RFT 255 (10/2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$581.

DHS provided a letter stating that Claimant paid \$300/month which stated that utilities were "all-inclusive" (see Exhibit 5). Claimant's testimony conceded that he paid \$300 in rent and he did not have to pay additionally for utilities. The total shelter obligation is calculated by adding Claimant's housing expenses to applicable utility credits; this amount is found to be \$300.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$10 (rounding to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$571. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance for 12/2014 is found to be \$22, the same amount calculated by DHS.

Claimant contended that even if DHS properly determined Claimant's FAP eligibility as \$22 for 12/2014, DHS should have waited to impose the reduction because of Claimant's timely hearing request. A timely hearing request is a request received anywhere in the department within 11 days of the effective date of a negative action. BAM 600 (7/2013), p. 7. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. *Id.*

Claimant requested a hearing to dispute the FAP reduction within 11 days of the DHS written notice. Thus, Claimant's contention that DHS should have continued issuing FAP benefits at an overly-improper amount has merit. A second DHS policy merits consideration in determining whether DHS should have over-issued FAP benefits to Claimant.

A timely hearing request can delete a proposed benefit reduction. BAM 700 (5/2014), p. 3. The client must repay the overissuance if the hearing decision upholds the department's actions. *Id.*

Applying the above-cited policies to the present case would result in ordering DHS to over-issue FAP benefits for benefit months of 12/2014 and 1/2015 and then recoup the benefits based on this decision. Such an outcome would be inefficient and senseless. It is found that DHS properly did not over-issue FAP benefits to Claimant so that they could later be recouped.

Claimant contended that he also had a dispute concerning a \$121 supplement of FAP benefits which DHS never issued. Claimant did not detail this dispute in the original hearing request. It was highly tempting to find that Claimant failed to establish jurisdiction for this dispute. In the interest of efficiency, Claimant's original hearing request concerning FAP benefits will be liberally interpreted to include a dispute concerning the \$121 supplement.

DHS provided a Benefit Search Inquiry (Exhibit 6). The document listed FAP issuances previously given to Claimant. The document verified that DHS issued a \$121 FAP benefit supplement to Claimant on [REDACTED]. Claimant provided no evidence, other than his testimony, to suggest the supplement was not issued. It is found that DHS resolved Claimant's dispute concerning a \$121 FAP supplement.

In correspondence to DHS submitted after his hearing request, Claimant wrote that he should receive the "token sum" of \$10,000. Claimant suggested that his pain and suffering justified such an award. For multiple reasons, Claimant's request was absurd. The primary reason for denying Claimant's "token sum" request is that Claimant failed to establish jurisdiction for such a claim. Claimant's request for the token sum of \$10,000 is decidedly rejected.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility, effective 12/2014. It is further found that Claimant is not entitled to an over-issuance of FAP benefits, that DHS issued a \$121 supplement to Claimant, and that Claimant is not entitled to the "token sum" of \$10,000. The actions taken by DHS are **AFFIRMED**.



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

Date Signed: **1/8/2015**

Date Mailed: **1/8/2015**

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:

