

4. Claimant is only responsible for telephone expenses. See Exhibit 1, p. 5.
5. On December 15, 2014, Claimant and Claimant's AHR filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2 and 8-12.
6. On January 22, 2015, the Michigan Administrative Hearing System (MAHS) sent both parties a Notice of Hearing, scheduling a hearing on February 2, 2015.
7. On January 29, 2015, Claimant requested a telephone hearing.
8. On February 4, 2015, the Administrative Law Judge (ALJ) sent both parties an Adjournment Order to reschedule the hearing.
9. On February 10, 2015, MAHS sent both parties a Notice of Hearing, rescheduling the hearing for February 25, 2015.
10. On February 25, 2015, both parties attended the hearing and the hearing proceeded accordingly.

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.

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 January 2015 FAP budget for review from the Notice of Case Action dated December 5, 2014. See Exhibit 1, pp. 4-5. The Department calculated a gross unearned income amount of \$903. Exhibit 1, p. 4. This amount comprised of Claimant's [REDACTED] pension and \$852 in Retirement, Survivors, and Disability Insurance (RSDI) income, which the AHR did not dispute. See BEM 503 (July 2014), pp. 27-33 and Exhibit 1, p. 5.

Then, the Department properly applied the \$[REDACTED] standard deduction applicable to Claimant's group size of one. RFT 255 (October 2014), p. 1 and see Exhibit 1, p. 5.

Next, the Department calculated Claimant's medical expenses (deduction) to be \$25. For groups with one or more SDV member, the Department uses medical expenses that

exceed [REDACTED]. See BEM 554 (October 2014), p. 1. In this case, the Department testified that it has been budgeting these medical expenses since July 2009. The Department indicated that it was budgeting [REDACTED] for Claimant's medical expenses. However, Claimant would be only eligible for medical expenses that exceed [REDACTED], which resulted in the [REDACTED] calculation for the medical expense [REDACTED] exclusion).

In response, Claimant's AHR appeared to indicate this medical expense (transportation cost) was proper for the year 2014. However, the AHR testified that Claimant's medical costs increased to [REDACTED]. The AHR indicated that she did not previously report this medical expense increase to the Department.

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. The Department does not verify other factors, unless questionable. BEM 554, p. 11. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. BEM 554, p. 11.

Based on the foregoing information, the Department properly calculated Claimant's medical expenses (deduction) to be \$25 in accordance with Department policy. Claimant's AHR acknowledged that she did not report the increase in Claimant's medical expenses until this hearing. The Department would verify Claimant's medical expenses only if it was reported and/or become aware of the increase. Because Claimant failed to report the increase in medical expenses, the Department properly did not increase Claimant's medical expenses deduction in accordance with Department policy. See BEM 554, pp. 8-12.

Once the Department subtracts the [REDACTED] standard deduction and [REDACTED] medical expense deduction from the unearned income, this results in an adjusted gross income of [REDACTED].

The Department also calculated Claimant's housing expenses to be [REDACTED]. See Exhibit 1, p. 5. In early to mid-December 2014, Claimant's AHR testified that she contacted and left a voicemail to the Department informing it that Claimant had a change of address and her rent decreased to [REDACTED] effective January 1, 2015. Claimant's AHR testified that the DHS caseworker shortly after contacted her confirming the increase in rent. However, Claimant's budget did not indicate her housing expenses were [REDACTED] instead, it had Claimant's previous housing costs of [REDACTED].

For groups with one or more SDV member, the Department allows excess shelter expenses. BEM 554, p. 1. The Department verifies 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, the Department removes 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.

Additionally, clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2014), p. 10. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 10. These include, but are not limited to, changes in address and shelter cost changes that result from the move. See 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 (October 2014), p. 6. If the reported change will decrease the benefits or make the household ineligible, action must be taken and a notice issued to the client within 10 days of the reported change. BAM 220, p. 7. A negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. The Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. There are two types of written notice: adequate and timely. BAM 220, p. 2. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4.

Based on the above information and evidence, the Department properly calculated Claimant's housing expenses to be ██████ in accordance with Department policy. First, the evidence appears to indicate that Claimant's housing costs were ██████ at the time the Department budgeted her FAP assistance on December 5, 2014 (date of case action). See Exhibit 1, p. 5. Second, Claimant's AHR testimony was unclear as to the specific date she reported the change in housing costs. However, Claimant's hearing request is dated in mid-December 2014, which is the same time frame she believed she reported the decrease in housing costs. Policy indicates that by the time the Department acts on the reported change (10 days to act on the reported change) and the fact that the Department would have to send a case action at least 11 days before her benefits would decrease, Claimant's change in housing costs (██████) would not be effective until February 2015. See BAM 220, pp. 1-10. As such, Claimant's housing costs were properly calculated in the amount of ██████ for January 2015.

Also, the Department indicated that Claimant did not receive the mandatory heat and utility (h/u) standard in the amount of ██████. See Exhibit 1, p. 5. Instead, the Department provided Claimant with the telephone standard of ██████. See Exhibit 1, p. 5. Claimant appeared to receive the ██████ h/u standard in the past; however, the Department re-budgeted Claimant's FAP benefits and this resulted in a decrease in her FAP allotment.

For groups with one or more SDV members, the Department uses excess shelter. See BEM 554, p. 1. In calculating a client's excess shelter deduction, the Department considers the client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556 (July 2013), pp. 4-5. The utility standard that applies to a client's case is dependent on the client's circumstances. The mandatory h/u standard, which is currently ██████ and the most advantageous utility

standard available to a client, is available only for FAP groups (i) that are responsible for heating expenses separate from rent, mortgage or condominium/maintenance payments; (ii) that are responsible for cooling (including room air conditioners) and verify that they have the responsibility for non-heat electric; (iii) whose heat is included in rent or 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 [REDACTED] 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 her behalf in an amount greater than [REDACTED] 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 or expenses). BEM 554, pp. 16-20; RFT 255, p. 1.

To show responsibility for heating and/or cooling expenses, acceptable verification sources include, but are not limited to, current bills or a written statement from the provider for heating/cooling expenses or excess heat expenses; collateral contact with the landlord or the heating/cooling provider; cancelled checks, receipts or money order copies, if current as long as the receipts identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense; DHS-3688 shelter verification; collateral contact with the provider or landlord, as applicable; or a current lease. BEM 554, pp. 16-20. For groups that have verified that they own or are purchasing the home that they occupy, the heat obligation needs to be verified only if questionable. BEM 554, p. 16.

FAP groups not eligible for the mandatory h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19. These include the non-heat electric standard ([REDACTED] as of October 1, 2014), if the client has no heating/cooling expense but has a responsibility to pay for non-heat electricity; the water and/or sewer standard (currently [REDACTED]), if the client has no heating/cooling expense but has a responsibility to pay for water and/or sewer separate from rent/mortgage; the telephone standard (currently [REDACTED]), if the client has no heating/cooling expense but has a responsibility to pay for traditional land-line service, cell phone service, or voice-over-Internet protocol; the cooking fuel standard (currently [REDACTED]), if the client has no heating/cooling expense but has a responsibility to pay for cooking fuel separate from rent/mortgage; and the trash removal standard (currently [REDACTED] if the client has no heating/cooling expense but has a responsibility to pay for trash removal separate from rent/mortgage. BEM 554, pp. 20-24; RFT 255, p. 1.

Sometimes the excess shelter deduction calculation will show more than one utility deduction. However, if the client is eligible for the [REDACTED] mandatory h/u, that is all the client is eligible for. If she is not eligible for the mandatory h/u, she gets the sum of the other utility standards that apply to his case. BEM 554, pp. 15 and 20.

During the hearing, both parties testimony established Claimant is only responsible for telephone expenses. See Exhibit 1, p. 5. Therefore, the Department acted in accordance with Department policy when it only provided Claimant with the [REDACTED] telephone standard. See Exhibit 1, p. 5.


Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the telephone standard; this amount is found to be [REDACTED]. Then, the Department subtracts the total shelter amount from fifty percent of the [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is [REDACTED]. When the Department subtracts the total shelter amount from fifty percent of the gross income, this results in an excess shelter deduction of [REDACTED].

Finally, the Department subtracts the [REDACTED] adjusted gross income from the [REDACTED] excess shelter deduction, which results in a net income of [REDACTED]. See Exhibit 1, p. 5. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be [REDACTED] effective January 1, 2015. RFT 260 (October 2014), p. 9.

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 acted in accordance with Department policy when it properly calculated Claimant's FAP benefits effective January 1, 2015.

Accordingly, the Department's FAP decision is **AFFIRMED**.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/26/2015**

Date Mailed: **2/27/2015**

EJF/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]