

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

IN THE MATTER OF:

██████████
██
████████████████████

Reg. No.: 15-001016
Issue No.: 3008
Case No.: ██████████
Hearing Date: February 25, 2015
County: MACOMB-DISTRICT 20
(WARREN)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 25, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and the Claimant's Authorized Hearing Representative, ██████████ his son. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearing Facilitator.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (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. The Claimant was an ongoing recipient of Food Assistance Benefits.
2. The Claimant completed a redetermination in November 2014 at which time he reported \$595 in rent, as well as a ██████████ bill and pays a non heat electric bill. The Claimant also received Social Security income of \$1100 in RSDI benefits and a pension of \$179.
3. The Department decreased the Claimant's FAP benefits to \$70 after the redetermination information was reported. Exhibit 2. Prior to the redetermination the Claimant was receiving FAP benefits of \$155. Exhibit 1

4. The Claimant requested a hearing on January 12, 2015 protesting the amount of his food 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 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.

Additionally, in this case the Department reduced the Claimant's food assistance due to changes in Department policy found in BEM 554 regarding a change in the calculation of the shelter calculation to determine the excess shelter deduction. Prior to the Claimant's November 2014 redetermination, the Claimant was receiving a \$553 heat and utility standard even though he did not pay for any heating. Exhibit 1 pg. 14. This was the policy in effect at the time which changed in May 2014 to eliminate this allowance given to all FAP recipients, including the Claimant unless they paid for heat. This policy was changed effective May 1, 2014 and required the Department when processing redeterminations to determine the actual utilities paid by a FAP recipient.

In processing the Claimant's redetermination it was determined that he did not pay for his heating and thus was no longer entitled to the \$553 heat allowance. Exhibit 2 p.6. The Department however, contrary to the facts, continued to include the \$553 allowance in error. Instead, based upon the Claimant's testimony provided at the hearing the Department was required include a \$34 allowance for the Claimant's phone and \$124 allowance for non-heat electric allowance. Based upon the budget provided, the budget as calculated by the Department is incorrect as the excess shelter allowance is wrong and must be recalculated. The Claimant also advised during the hearing that medical bills had been provided to the Department to be reviewed for inclusion as an ongoing medical expense in the FAP budget. The Department is to determine if medical bills were received, and process as appropriate any ongoing eligible medical expenses, if any, and include them as appropriate in the FAP budget calculations. If medical bills were not received by the Department the Department shall so notify the Claimant and his AHR so that the bills can be resubmitted.

The October 2014 FAP budget was also presented by the Department and reviewed during the hearing. Exhibit 1. The Department did not include the Claimant's pension

of \$179 in the net unearned income amount and thus the income is incorrect. The Department correctly used the prior heat and utility standard of \$553 as the redetermination had not occurred. Because the Claimant's pension income was not included, the Department's calculation of the FAP benefits for October 2014 is incorrect and must also be recalculated. Exhibit 1 p. 6 and 14.

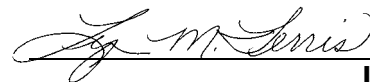
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly failed to include pension income for October 2014 and improperly failed to calculate the shelter allowance correctly for the reasons set forth above.

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. The Department shall recalculate the Claimant's Food Assistance for the months of October 2014 and November 2014 and correct the excess shelter calculation in both budgets in accordance with the requirements and determinations of error set forth in the Conclusions of Law above.
2. The Department shall provide a written notice to the Claimant and Claimant's AHR of its determination and supplement the FAP benefits, if any such supplement is due, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**

Date Mailed: **3/4/2015**

LMF / cl

