

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

IN THE MATTER OF:

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Reg. No.: 15-005806
Issue No.: 3008
Case No.: ██████████
Hearing Date: May 20, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, ██████████, Claimant's spouse, also appeared as a witness. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance (FAP) benefit amount?

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 completed a redetermination dated February 10, 2015 due March 3, 2015. Exhibit. A
2. The Claimant reported on her redetermination that she and her spouse paid health insurance premiums. Exhibit A, p 3. The Department did not seek verification of these health care premiums.
3. The Department presented an unearned income summary indicating the Claimant's unearned income was \$827.90 ██████████ and \$1017.90 ██████████ Exhibit B. The Claimant reported on the redetermination that she received \$723 per

month in RSDI. Both Claimant and her spouse receive RSDI and disputed the Department's income used in the FAP budgets. Exhibit A.

4. The Claimant's shelter expenses including mortgage, property taxes and insurance have increased but were not reported by the Claimant on the redetermination or updated with the Department except by phone. In the February 2015 FAP budget the Department used the \$469 for shelter expenses previously reported in 2012 and also included a heat and utility standard of \$553. The Budget for February is incorrect and must be recalculated.
5. The February 2015 income of \$1828 is incorrect as it represented RSDI of \$1000 (spouse) and \$813 received by the Claimant. No evidence was presented to establish a \$14 quarterly supplement. The February 2015 FAP budget also erroneously included medical expenses of \$10,069. This was a Department error. Exhibit C
6. The Claimant pays the Medicare Part B premium of \$104.90. It could not be determined if this expense was included as a medical expense.
7. The Department completed a March 2015 budget which included income of \$1844 and no medical deductions, and did not include the Medicare Part B premium of \$104.90. Although a budget was included in the hearing packet, the budget was not in the Bridges system. The Department indicated that the budget for March indicated the FAP benefits were \$0. The March budget included the \$10,069 medical deduction. The Department also included new shelter amounts with no verification received. Exhibit E.
8. The Claimant requested a hearing on April 9, 2015 protesting the reduction of their FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department issued FAP benefits to the Claimant and for several months, February 2015 and March 2015 included, as ongoing medical expenses \$10,069. The Claimant did not have such ongoing medical expenses and because this large sum was included when calculating FAP benefits the Claimant received the wrong amount of FAP benefits. Although the Claimant contested the amount of their unearned income from Social Security used by the Department to determine FAP benefits, the Department used its record interface with social security to determine the Claimant's FAP group's unearned income. The Claimant did not provide any written evidence to dispute or disprove that the unearned income used to calculate FAP was incorrect. The Claimants may establish at any time after the hearing through appropriate letters from social security the correct amount of their RSDI benefits.

The FAP budget was reviewed for February 2015 and is determined to be incorrect as it includes the \$10,069 medical deduction and thus must be recalculated. The unearned income used in computing the February 2015 FAP benefits is \$1828. Exhibit C. The income proofs presented by the Department indicate the Claimant received \$813 [REDACTED] and \$1000 [REDACTED], for a total of \$1813. The Department did not present evidence as to how it arrived at income of \$1828 and thus the income must be redetermined by the Department. It is possible that the Department included a \$14 quarterly supplement which might explain the difference, but no such evidence was presented that the Claimant received same, thus the Department failed to satisfy its burden of proof regarding the determination of unearned income for the February 2015 FAP budget.

Also the Department had an obligation to verify ongoing medical premiums reported on the redetermination and presented no evidence that it verified these premiums. The Department must verify the premiums and include them ongoing as of the date they were reported by the Claimant on the Redetermination on March 2, 2015. The Claimant should not be penalized due to the Department's failure to verify these premium amounts. Lastly, both Claimants are RSDI recipients and testified that they have ongoing medical expenses which they incur monthly. The Department is required to include ongoing medical expenses as part of the FAP budget under these circumstances and thus must determine ongoing medical expenses and include them when recalculating the FAP benefits.

The FAP budget for March 2015 evidence was confused as the budget in the hearing file was not the budget in the Bridges computer system and the budget in Bridges once again showed a \$10,068 medical expense deduction which was incorrect. Exhibit E. The "budget" reviewed was again incorrect and thus must be recalculated. The Claimants are both on RSDI and testified to ongoing medical expenses. As the Claimants are allowed to claim medical expenses as they are an SDV group due to the receipt of RSDI, the Department must update ongoing medical expenses so that the Claimants' FAP benefits can be correctly calculated.

The Department should take note at the lack of attention given to the preparation of the FAP budgets presented. This ongoing lack of attention to detail has caused serious errors.

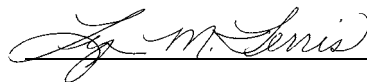
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated the February and March 2015 FAP budgets for the reason set forth in this Decision and did not meet its burden of proof regarding unearned income used to calculate FAP benefits for these months

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 FAP benefits for February 2015 and March 2015 and shall verify and determine **updated** ongoing medical expenses incurred by the Claimants and shall include ongoing medical expenses and shall include verified medical premiums reported on the redetermination as part of the medical expenses as well as any Medicare Part B premiums paid, if any.
2. The Department shall provide written notice of its determinations and issue a FAP supplement if any is required in accordance with Department policy.



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

Date Signed: **5/29/2015**

Date Mailed: **5/29/2015**

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