

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 15-005915
Issue No.: 3008; 5000
Case No.: ██████████
Hearing Date: May 18, 2015
County: WAYNE-DISTRICT 31
(GRANDMONT)

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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on May 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly decrease Claimant's Food Assistance Program (FAP) allotment to the amount of \$111 effective May 1, 2015?

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 April 7, 2015, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$111 effective May 1, 2015 to November 30, 2015 because her shelter deduction amount and medical expense deduction amount had changed. See Exhibit 2, pp. 10-13.
3. On April 14, 2015, Claimant filed a hearing request, protesting her FAP benefits. See Exhibit 2, p. 2.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Preliminary matter

Shortly after commencement of this hearing, it was discovered that this Administrative Law Judge (ALJ) would address two hearing requests submitted by the Claimant. As stated above, Claimant submitted one hearing request on April 14, 2015, in which she disputed her FAP benefits. See Exhibit 2, p. 1. However, on April 13, 2015, Claimant also submitted a hearing request, disputing the denial of her SER assistance for water or sewage. See Exhibit 1, p. 2.

On April 2, 2015, the Department sent Claimant an SER Decision Notice notifying her that her SER request for water or sewage was denied based on a failure to comply with the verification requirements. See Exhibit 1, pp. 4-5. However, Claimant subsequently reapplied for SER assistance for water or sewage and was approved with a co-payment amount. Thus, Claimant acknowledged that she no longer disputed her SER denial due to the subsequent application/approval with a co-payment and, therefore, her SER hearing request (dated April 13, 2015) is DISMISSED. Nevertheless, this ALJ still addressed whether the Department properly decreased Claimant's FAP benefits effective May 1, 2015.

FAP benefits

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 May 2015 FAP budget for review. See Exhibit 2, pp. 7-8.

First, the Department calculated Claimant's gross unearned income to be \$767. This amount consisted of \$360 in Retirement, Survivors, and Disability Insurance (RSDI) income, \$393 in Supplemental Security Income (SSI) benefits, and \$14 in monthly State SSI Payments (SSP) (\$42 issued quarterly). See Exhibit 2, pp. 3-5 and BEM 503 (July 2014), pp. 28-33. Claimant did not dispute her Social Security benefits; however, she testified that she only received \$14 in SSP benefits in March of 2015. The Department, though, presented Claimant's Benefit Summary Inquiry, which showed that she received \$42 in SSP benefits on March 10, 2015. See Exhibit 3, p. 1. As such, the Department properly calculated Claimant's gross unearned income to be \$767.

The Department also properly applied the \$154 standard deduction applicable to Claimant's group size of one. See RFT 255 (October 2014), p. 1 and see Exhibit 2, p. 7.

Next, the Department did not provide Claimant with any medical deductions. See Exhibit 2, p. 7. Claimant provided testimony for several medical expenses and testified that she sent the Department medical bills in March of 2015. Claimant, though, failed to provide any proof that she sent medical bills nor did she provide any proof of medical expenses during the hearing. In response, the Department testified it has never received such medical expenses from the Claimant.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 11. These include, but are not limited to, changes in health or hospital coverage and premiums... See BAM 105, p. 11.

For groups with one or more SDV member, the Department allows medical expenses that exceed \$35. BEM 554 (October 2014), p. 1. 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.

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 above information, the Department properly did not provide Claimant with any medical deductions. Policy clearly states that the Claimant must report such changes, including medical expenses, to the Department. See BAM 105, p. 11 and BEM 554, p. 11. Once the Department becomes aware of the reported change, the Department then initiates verification of the change (i.e., medical expenses). See BAM 105, p. 11 and BEM 554, p. 11. In this case, the evidence presented that Claimant failed to report her medical expenses to the Department and she did not even present any evidence of such alleged medical bills to this ALJ. As such, the Department acted in accordance with Department policy when it did not budget any of Claimant's alleged medical expense as a deduction. See BAM 105, p. 11 and BEM 554, p. 11. Therefore, Claimant's adjusted gross income is \$613 (\$767 total income amount minus \$154 standard deduction). See Exhibit 2, p. 7.

Next, the Department presented Claimant's FAP – Excess Shelter Deduction budget (shelter budget) for May 2015. See Exhibit 2, p. 9. The Department provided Claimant with the \$553 mandatory heat and utility standard (h/u), which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. See Exhibit 2, p. 9; BEM 554, pp. 14-15; and RFT 255, p. 1.

Also, the Department calculated Claimant's monthly housing expenses to be \$91.59. See Exhibit 2, p. 9. This comprised of Claimant's 2014 property taxes, which amounted to \$1,099.10 for the year. See Exhibit 2, p. 6. However, the Department divides \$1,099.10 by 12 months to obtain a monthly average, which in this case is \$91.59. Claimant did not dispute this calculation; however, indicated that she had additional property taxes that she owes for the year 2013. Claimant testified that this resulted in a total property tax amount owed of approximately \$3,000 (tax arrearage for the years 2013 and 2014). Claimant testified that she is currently in foreclosure status due to this amount owed. Claimant's testimony appeared to indicate that she notified the Department of these additional property taxes owed in her written hearing request in April of 2015, but did not provide verification. A review of Claimant's hearing requests did not mention any additional property taxes owed other than the verification provided of her current 2014 property taxes. See Exhibit 2, p. 6. Claimant appeared to provide her 2014 property taxes to the Department on April 3, 2015. See Exhibit 2, p. 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. The Department does not prorate the shelter expense even if the expense is shared. 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. Late fees and/or penalties incurred for shelter expenses are not an allowable expense. BEM 554, p. 12. Specifically, property taxes,

state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13.

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, 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.

Based on the above information, the Department properly calculated Claimant's housing expenses to be \$91.59. Policy clearly states that the Claimant must report such changes, including shelter expenses to the Department. See BAM 105, p. 11 and BEM 554, p. 14. Once the Department becomes aware of the reported change, the Department then initiates verification of the change (i.e., properly taxes). See BAM 105, p. 11 and BEM 554, p. 14. In this case, a review of Claimant's hearing requests did not indicate additional property taxes owed for the year 2013. See Exhibit 1, p. 2 and Exhibit 2, p. 2. Moreover, the evidence presented that Claimant only reported and provided proof of her 2014 property taxes. See Exhibit 2, p. 6. As such, the Department acted in accordance with Department policy when it did not budget Claimant's alleged property taxes owed (tax arrearage) from the year 2013. See BAM 105, p. 11 and BEM 554, p. 14.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the h/u standard; this amount is found to be \$645. See Exhibit 2, p. 9. Then, the Department subtracts the total shelter amount from fifty percent of the \$613 adjusted gross income. See Exhibit 2, p. 7. Fifty percent of the adjusted gross income is \$306. See Exhibit 2, p. 9. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$339. See Exhibit 2, p. 9.

The Department then subtracts the \$613 adjusted gross income from the \$339 excess shelter deduction, which results in a net income of \$274. See Exhibit 2, pp. 7-8. 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 \$111 effective May 1, 2015. RFT 260 (October 2014), p. 4.

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 properly decreased Claimant's FAP benefits to the amount of \$111 effective May 1, 2015.

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

IT IS ORDERED that Claimant's SER hearing request (dated April 13, 2015) is **DISMISSED**.


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

Date Signed: **5/19/2015**

Date Mailed: **5/19/2015**

EJF / cl

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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.

