

**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.: 15-003985
Issue No.: 3008; 7002
Case No.: ██████████
Hearing Date: April 20, 2015
County: Wayne-District 41 (Fort Wayne)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Coordinator.

ISSUE

Did the Department properly process Claimant's State SSI Payment (SSP) benefits?

Did the Department properly calculate Claimant's Food Assistance Program (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. Claimant was an ongoing recipient of SSP and FAP benefits.
2. Claimant is the sole member of her FAP group.
3. Claimant receives monthly Supplemental Security Income (SSI) of \$733 and quarterly SSP of \$42.
4. On February 21, 2015, the Department sent Claimant a State Supplemental Payment Notice advising her that, based on her receipt of SSI benefits and her

independent living arrangement, she was eligible for \$14 in monthly SSP benefits payable quarterly.

5. On March 10, 2015, Claimant filed a request for hearing concerning her SSP and FAP cases.

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).

SSP

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Claimant requested a hearing concerning her SSP benefits, believing that the benefits had decreased from \$42 to \$14. Upon review, Claimant agreed that the Department's February 21, 2015, State Supplement Payment Notice advised her that her SSP payments were \$14 monthly to be paid quarterly. A \$14 monthly SSP payment is the maximum benefit available to an individual receiving \$733 in SSI benefits and living in an independent living arrangement. RFT 248 (January 2015), p. 1. This results in a \$42 quarterly payment. Claimant testified that, after the letter was explained to her, she agreed with the Department's position. Because Claimant was not adversely affected by the Department's actions concerning her SSP benefits, Claimant has failed to present a hearable issue with respect to the SSP benefits and her hearing request concerning that matter is dismissed. Mich Admin Code, R 792.11002.

FAP

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.

Claimant testified that she was concerned about the decrease in her FAP benefits beginning December 1, 2014. She testified that she receives monthly SSI payments totaling \$733 and quarterly SSP benefits of \$42, resulting \$747 in gross monthly unearned income. BEM 503 (July 2014), p. 33. Because she is the sole member of her FAP group, she is eligible for a standard deduction of \$154. RFT 255 (October 2014),

p. 1. Although she is also eligible for deductions for dependent care expenses, child support, and, because she is a senior/disabled/veteran member of her FAP group, out-of-pocket medical expenses over \$35, she admitted she did not have those expenses. BEM 554 (October 2014), p. 1; see BEM 550 (February 2014), pp 1-2. Claimant is also eligible for an excess shelter deduction which is based on her (i) monthly shelter expenses of \$132 and (ii) because she is responsible for heat, the \$553 mandatory heat and utility (h/u) standard, which is the most advantageous utility standard available to a client. See RFT 255, p. 1; BEM 554, pp. 16-20.

The Department did not address Claimant's FAP benefits in its hearing summary or present any documentation concerning her FAP case. At the hearing, the Department explained that Claimant's FAP benefits had decreased in December 2014 because the Department had not properly budgeted her rent and utilities but that it recalculated Claimant's FAP budget for December 2014, January 2015 and February 2015 and issued a supplement. It alleged that it had corrected Claimant's FAP budget for April 2015 ongoing and the only issue remained her FAP benefits for March 2015. However, because the Department did not present any documentation in support of its FAP calculation for the months for December 2014 ongoing or concerning FAP supplements issued, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to any of the months from December 2014 ongoing. Claimant is advised that if she continues to remain dissatisfied with the Department's actions concerning her FAP benefits, she may request another hearing.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for December 1, 2014, ongoing.

DECISION AND ORDER

Because Claimant did not have a hearable issue concerning her SSP case, Claimant's March 10, 2015, hearing request concerning that issue is DISMISSED.

The Department's FAP 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. Recalculate Claimant's FAP benefits for December 1, 2014, ongoing;
2. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from December 1, 2014, ongoing; and

3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

ACE / tlf

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.

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:

