

**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.: 15-005157
Issue No.: 3008
Case No.: ██████████
Hearing Date: May 06, 2015
County: Wayne-District 18 (Taylor)

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 May 6, 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 Facilitator/Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for February 26, 2015, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 26, 2015, Claimant applied for FAP benefits for himself (Exhibit D).
2. On March 10, 2015, the Department sent Claimant a Notice of Case Action approving him for FAP benefits of \$0 for the period February 26, 2015, to February 28, 2015, and for monthly FAP benefits of \$16 for March 1, 2015, ongoing (Exhibit A).
3. On March 24, 2015, Claimant filed a request for hearing disputing the Department's calculation of his monthly 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.

Claimant applied for FAP benefits on February 26, 2015. In a Notice of Case Action dated March 10, 2015, the Department approved Claimant for \$0 in FAP benefits for February 26, 2015, to February 28, 2015, and for \$16 monthly For March 2015, ongoing. Claimant disputed his \$16 FAP allotment. The Department presented a FAP net income budget for March 2015 showing its calculation of Claimant's monthly FAP allotment, which was reviewed with Claimant at the hearing (Exhibit B).

Claimant confirmed that he received \$733 in gross monthly Supplemental Security Income (SSI) and \$42 in quarterly State SSI Payments (SSP). For FAP purposes, Claimant's \$42 SSP benefit every three months results in \$14 in monthly unearned income. BEM 503 (July 2014), p. 33. Therefore, the budget properly shows \$747 in gross monthly unearned income for March 2015, the sum of the \$733 SSI and \$14 SSP.

Because Claimant is an SSI recipient, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (February 2014), pp 1-2. FAP groups with one or more SDV members and no earned income are eligible for the following deductions from the group's total income:

- Standard deduction.
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Verified, out-of-pocket medical expenses for the SDV member(s) that exceed \$35.

BEM 554 (October 2014), p. 1; BEM 550 (February 2014), p. 1;
BEM 556 (July 2013), p. 3.

The standard deduction is based on group size. RFT 255 (October 2014), p. 1. At the hearing, Claimant did not dispute the Department's conclusion that he was the sole member of his FAP group; his application showed that he only requested FAP benefits for himself (Exhibit D). Based on his testimony that he might want to have his parents, with whom he lived, included in his FAP group, he was advised that he could request that the Department add them to his case and to have the group's eligibility for *future* months assessed based on the income, expenses and assets of all the group members. However, based on Claimant's one-person FAP group at the time of application, Claimant was eligible for a \$154 standard deduction, as shown on the budget on the Notice. RFT 255, p. 1.

Claimant confirmed that he had no day care or child support expenses and had not verified any out-of-pocket medical expenses to the Department prior to the hearing. Therefore, the budget properly showed \$0 for those deductions.

The final deduction available in calculating FAP benefits is the excess shelter deduction. The excess shelter deduction is based on (i) monthly shelter expenses and (ii) the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. The letter from Claimant's mother confirmed that he paid \$100 in monthly rent, as shown on the excess shelter deduction budget (Exhibit B).

The utility standard that applies to a client's case is dependent on the client's circumstances. A client is eligible for the \$553 mandatory h/u standard, which is the most advantageous utility standard available to a client, if (i) the client is responsible for, or contributes towards heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a home heating credit (HHC) in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month; (iv) the client received a low income home energy assistance payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 16-20. If a client is not eligible for the mandatory h/u standard, the client may be eligible for mandatory *individual* standards for non-heat electric, water and/or sewer, telephone, cooking fuel, and/or trash removal, as applicable. BEM 554, pp. 20-23.

The Department concluded that the only utility Claimant was responsible for paying was telephone and applied the \$34 telephone utility standard in calculating his excess shelter deduction. RFT 255, p. 1. At the hearing, Claimant testified that he also was responsible for purchasing cooking fuel and fire wood used in the home's wood stove to heat the home in the winter and presented a note from his mother/landlord dated May 5, 2015, to show his responsibilities (Exhibit 1). The note had not been presented to the Department prior to the hearing. Because Claimant indicated in his application that his parents are responsible for the electrical (non-heat), heat (gas, electric, propane, wood,

etc.), and water/sewer, the Department properly concluded that Claimant was not eligible for any utility standards other than telephone when it processed the application and sent the March 10, 2015, notice. Based on his \$100 rent and the \$34 telephone utility standard, Claimant was not eligible for an excess shelter deduction. BEM 556, pp. 4-5. Claimant is advised to submit the May 6, 2015, note to his worker as a reported change and, if unsatisfied with the processing of the reported change and how it affects his FAP, to request a hearing.

When Claimant's \$747 in gross unearned income is reduced by the \$154 standard deduction, the only deductible available to him, Claimant's net income is \$593. Based on a group size of one and net income of \$593, Claimant was, based on the February 26, 2015, date of application, not eligible for any prorated benefits for February 26, 2015, to February 28, 2015, and eligible for a monthly FAP allotment of \$16 beginning March 2015. BAM 115 (January 2015), pp. 26-27; RFT 260 (October 2014), p. 8.

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 calculated Claimant's FAP benefits at application.

DECISION AND ORDER

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



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

Date Signed: **5/13/2015**

Date Mailed: **5/13/2015**

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:

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]
[REDACTED]
[REDACTED]
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