

**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.: 15-007914
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 18, 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 June 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist/Hearing Facilitator, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for June 1, 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. Claimant is an ongoing recipient of FAP benefits.
2. Claimant receives monthly social security benefits totaling \$753, consisting of \$626 in Retirement, Survivors and Disability Insurance (RSDI) benefits and \$127 in Supplemental Security Insurance (SSI) benefits. She receives quarterly State SSI Payments (SSP) benefits of \$42.
3. In connection with ongoing FAP eligibility, Claimant completed a redetermination (Exhibit A).

4. In connection with the redetermination, the Department collaterally contacted Claimant's landlord to confirm her monthly rent of \$400, which included all utilities (Exhibit C).
5. On May 4, 2015, the Department sent Claimant a Notice of Case Action notifying her that her monthly FAP benefits were decreasing to \$48 effective June 1, 2015 (Exhibit E).
6. On May 12, 2015, Claimant filed a hearing request disputing the Department's actions (Exhibit F).

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 disputed the reduction of her monthly FAP benefits from \$194 to \$48 for June 1, 2015, ongoing. At the hearing, the FAP net income budget for June 2015 ongoing used by the Department in calculating Claimant's FAP benefits (Exhibit D) was reviewed with Claimant. The budget showed gross monthly unearned income of \$767. Claimant confirmed receipt of monthly social security benefits totaling \$753 and quarterly SSP benefits of \$42. 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 \$767 in gross monthly unearned income for June 2015 ongoing, the sum of the monthly \$626 RSDI, \$127 SSI and \$14 SSP Claimant receives.

Because Claimant is an SSI recipient, she is a senior/disabled/veteran (SDV) member of her 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.

Based on Claimant's one-person FAP group, Claimant was eligible for a \$154 standard deduction, as shown on the budget. RFT 255 (October 2014), p. 1. Claimant did not dispute the Department's testimony that she had no day care, child support, or out-of-pocket medical expenses.

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 Department verified that Claimant's rent was \$400, as shown on the excess shelter deduction. (Exhibit D, p. 3).

The utility standard that applies to a client's case is dependent on the client's circumstances. The Department explained that, because Claimant's heating and cooling obligation was included in her rent, as a result of a change in Department policy she was no longer eligible for 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.

A client is eligible for the \$553 mandatory h/u standard 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.

Claimant's testimony at the hearing established that she did not meet any of the criteria for receipt of the \$553 mandatory h/u standard. 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. In this case, Claimant confirmed that water, sewer, trash removal, and electric were all included in her rent. Therefore, the only utility identified on the budget is the telephone. The telephone standard is \$34, as shown on the excess shelter deduction. RFT 255, p. 1. Because on Claimant's \$400 monthly rent and the \$34 telephone standard she is eligible to receive, Claimant's excess shelter deduction was properly calculated at \$128.

When Claimant's gross income of \$767 is reduced by the \$154 standard deduction and the \$128 excess shelter deduction, Claimant's net income is \$485. Based on a FAP group size of one and net income of \$485, Claimant was eligible for gross monthly FAP benefits of \$48. RFT 260 (October 2014), p. 7). Therefore, the Department acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits for June 2015 ongoing.

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: **6/24/2015**

Date Mailed: **6/24/2015**

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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]