

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

IN THE MATTER OF:



Reg. No.: 15-012435
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 24, 2015
County: WAYNE-DISTRICT 18

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 August 24, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist, Hearing Facilitator.

ISSUE

Did the Department properly calculate the Claimant's Food Assistance, (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. The Claimant applied for FAP benefits on [REDACTED].
2. The Department issued a Notice of Case Action on [REDACTED], approving the Claimant's FAP application for benefits in the amount of \$16. Exhibit 5
3. The Claimant receives RSDI unearned income in the amount of \$1,458, pays a Medicare Part B Premium in the amount of \$104.90, and pays rent in the amount of \$790. Exhibits 3 and 4
4. The Claimant pays for a telephone, non-heat electricity and water and received the following housing expense deductions; telephone (\$34), non-heat electricity, (\$124) and water (\$77). The total of utilities and rent are \$1025. Exhibit 3, p.4

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 Claimant sought a review of why his FAP benefits were only \$16 monthly. At the hearing, all of the Claimant's income and housing expenses were reviewed and were correct. The Claimant provided with the application, a document which indicates that he is responsible to pay Medicare Part B Premium of \$104.90. This was not included as a medical expense, as the Claimant receives RSDI income and is therefore entitled to a deduction for that cost, less the first \$35 which are not included.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Supplemental Security Income (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The Department concluded that Claimant had unearned income of \$1,458 based on RSDI benefits for Claimant. Claimant confirmed that Claimant receives this amount. Therefore, the Department properly calculated Claimant's gross income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the group because he receives RSDI. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

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

In this case, Claimant did not have any earned income and there was no evidence presented that he had any dependent care or child support. The Claimant was specifically asked if he paid Medicare Part B premiums and it was determined he did. Claimant also testified that he had recurring ongoing prescription expenses that were not reported with the application but can be included as an ongoing medical expense for September 2015 going forward that he provided to the Department after the hearing. Therefore, the FAP budget properly did not include any deduction for earned income, dependent care expenses or child support. Based on his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction, the Department considered Claimant's \$790 monthly rental/housing expenses and \$34 for the telephone standard and a \$124 electric standard found in RFT 255 (October 1, 2014) p. 1. (Exhibit C). The Department explained that Claimant was no longer eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction because he does not pay for heat. See BEM 554, pp. 16-19. A review of the excess shelter deduction budget and Department policy demonstrates that the Department properly determined that Claimant was eligible for an excess shelter deduction of \$373. BEM 556, pp. 4-5; RFT 255, p. 1.

After further review, the Department properly reduced Claimant's gross income of \$1458 by the \$154 standard deduction, resulting in adjusted gross income of \$1304. In determining monthly net income of \$931, the shelter expenses are deducted from 50% of the adjusted gross income ($\$1025 - \$652 = \$373$). Exhibit 3 p. 4. The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income ($\$1304 - \$373 = \$931$). Based on net income of \$931 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$16. BEM 556; 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 did not act in accordance with Department policy when it failed to include Claimant's Medicare Part B premium as a medical expense.

DECISION AND ORDER

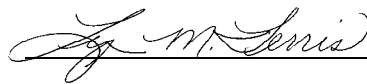
Accordingly, the Department's decision is

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 FAP benefits for June 2015, and shall include the Medicare Part B premium in the FAP budget as a medical deduction as required by Department policy.
2. The Department shall provide the Claimant a FAP supplement, if any is due, in accordance with Department policy and shall provide written notice of its determination of the correct FAP benefit amount.



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

Date Signed: **8/26/2015**

Date Mailed: **8/26/2015**

LMF / hw

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:

