

**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.: 15-012592  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: August 24, 2015  
County: Wayne-District 15 (Greydale)

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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 Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Assistance Payment Worker.

**ISSUE**

Did the Department properly calculate the amount of 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 FAP benefits.
2. Claimant was approved for FAP benefits in the amount of \$29 monthly. (Exhibit A)
3. On July 8, 2015, Claimant requested a hearing disputing the Department's calculation of her 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 requested a hearing disputing the Department's calculation of her FAP benefits in the amount of \$29 monthly. It was established that Claimant's benefits were decreased to \$29 effective January 1, 2015. (Exhibit A). At the hearing, the Department presented the FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit B).

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$42 and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p.33; see RFT 248 (January 2015), p. 1.

The Department concluded that Claimant had unearned income of \$747 which it testified came from \$733 in SSI benefits and \$14 in SSP benefits for Claimant. Claimant confirmed that she receives \$733 in SSI and \$14 SSP benefits. 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 her FAP group and is a senior/disabled/veteran (SDV) member of the FAP group. 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 she had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her 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 budget shows that the Department considered Claimant's confirmed monthly rent of \$183, the \$124 non-heat electric standard and the \$34 telephone standard.

Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554, pp. 16-19; RFT 255, p. 1. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

At the hearing, the Department testified that Claimant was no longer eligible for the \$553 h/u standard because she was not responsible for heating or cooling expenses separate from her monthly rent. Although Claimant confirmed that she is responsible for electric and telephone expenses and that her heating and cooling are included in the costs of her monthly rent, Claimant testified that she received a home heating credit in an amount greater than \$20. With Claimant's hearing request, she submitted a 2014 Michigan Home Heating Credit Claim indicating that she will receive a \$75 home heating credit. (Exhibit 1). Claimant also provided a change report that she signed on December 5, 2014, on which it is reported that Claimant receives a home heating credit, however, it was unclear when the change report was received by the Department. (Exhibit 1).

During the hearing, the Department reviewed Claimant's file on Bridges and stated that a home heating credit was on file for Claimant with a processed date of March 9, 2015. The Department stated that the information on Bridges regarding the home heating credit is conflicting because Claimant is not responsible for heating costs at her residence. There was no evidence presented that the Department sent Claimant a verification checklist or requested that she provide sufficient/acceptable verification as required by policy in order for Claimant to resolve the discrepancy or conflicting information with respect to her home heating credit. Therefore, the Department failed to

establish that it properly excluded the \$553 h/u standard from the calculation of Claimant's excess shelter deduction. As such, the Department shall recalculate Claimant's FAP benefits for the period of January 1, 2015, ongoing, in accordance with BAM 406.

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 because of the errors in the calculation of Claimant's excess shelter deduction, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$29 effective January 1, 2015.

### **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. Recalculate Claimant's FAP budget for January 1, 2015; and
2. Issue FAP supplements to Claimant from January 1, 2015, ongoing, in accordance with Department policy.



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**Zainab Baydoun**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **8/27/2015**

Date Mailed: **8/27/2015**

ZB / 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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