

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

IN THE MATTER OF:

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Reg. No.: 15-001028
Issue No.: 3008
Case No.: ██████████
Hearing Date: February 19, 2015
County: Wayne-District 49

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. After due notice, a telephone hearing was held on February 19, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective January 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 is the only member of his FAP group and is disabled.
3. Claimant receives monthly Supplemental Security Income (SSI) of \$735 and quarterly State SSI Payments (SSP) of \$42.

4. On December 6, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective January 1, 2015 his monthly FAP benefits would decrease to \$27.
5. On January 16, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Claimant requested a hearing to dispute the decrease in his monthly FAP benefits from \$182 to \$27 effective January 1, 2015. The December 6, 2014 Notice of Case Action notifying Claimant of the decrease in benefits indicated that the change was due to changes in his shelter expenses and unearned income. At the hearing, the Department explained that there was a small increase in Claimant's SSI effective January 1, 2015. The Department acknowledged that there was no change in Claimant's monthly rent but explained that there was a change in the excess shelter deduction he was eligible to receive due to a change in Department policy.

A copy of the net income budget used by the Department in calculating Claimant's FAP benefits was reviewed with Claimant at the hearing. Claimant confirmed that he receives monthly SSI payments of \$733 and quarterly SSP payments of \$42. For FAP purposes, Claimant's \$42 SSP benefit every three months results in a monthly \$14 in unearned income. BEM 503 (July 2014), p. 33. The total of \$733 in SSI benefits and \$14 in SSP benefits results in \$747 in monthly unearned income, consistent with the amount shown on the budget.

Because Claimant receives SSI, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (February 2014), pp 1-2. For groups with one or more SDV members with no earned income, the following deductions are available 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. RFT 255 (October 2014), p. 1. Claimant confirmed that he had no day care, child support, or out-of-pocket medical expenses. Therefore, the budget properly shows no deductions for those items.

In calculating a client's excess shelter deduction, the Department considers the client's (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 December 6, 2014 Notice of Case Action shows that the Department used \$300 as Claimant's monthly shelter expense. Claimant verified that he paid \$300 in monthly rent. 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 his rent, because of a change in Department policy, he 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. At the hearing, Claimant admitted that his heating and cooling expenses were included in his rent and he did not have a room air conditioner. He testified that, while his parents, from whom he rented, received a home heating credit or low-income home energy assistance payment (LIHEAP), he did not. There was no evidence that he was charged for excess heating or cooling expenses. Consequently, the Department properly concluded that he was ineligible for the mandatory h/u standard. BEM 554, pp. 14-20.

FAP groups not eligible for the mandatory 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, pp. 20-23. In this case, Claimant testified that he was not responsible for non-heat electric, water and/or sewer, telephone, cooking fuel, or trash removal. While it appears he was not eligible for the individual utility standards, the Department did apply the \$34 telephone expense in calculating his excess shelter deduction. Based on \$300 in monthly rent and applying the \$34 telephone expense, Claimant's excess shelter deduction was \$38, as shown on the budget.

A review of Claimant's FAP budget shows that the Department properly reduced Claimant's gross income of \$747 by the \$154 standard deduction and the \$38 excess shelter deduction, resulting in monthly net income of \$555. Based on net income of \$555 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 \$27. 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 acted in accordance with Department policy when it calculated Claimant's FAP benefits for January 1, 2015 ongoing.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: **2/27/2015**

Date Mailed: **2/27/2015**

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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]
[REDACTED]
[REDACTED]
[REDACTED]