

5. On January 14, 2015, Claimant requested a hearing concerning the decrease in his FAP benefits.
6. In a Hearing Decision issued March 2, 2015, the presiding administrative law judge concluded that, because the Department failed to provide any income information, it had failed to satisfy its burden of showing that it acted in accordance with Department policy and ordered the Department to reprocess Claimant's budget.
7. In accordance with the Hearing Decision, the Department recalculated Claimant's budget for December 1, 2014, ongoing and concluded that no changes were warranted.
8. On March 24, 2015, Claimant filed another request for hearing disputing the Department's calculation of his 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 disputed the reduction of his monthly FAP benefits from \$182 to \$32 for December 2014 and to \$28 effective January 1, 2015, ongoing. Although Claimant questioned the Department's testimony that he received \$182 monthly prior to December 2014, the Department established through a benefit issuance summary that \$182 was deposited to Claimant's electronic balance transfer (EBT) card on October 15, 2014, and November 15, 2014; Claimant admitted that he did not keep records of the amounts deposited on his EBT card. Thus, at issue are the monthly FAP benefits for December 1, 2014, ongoing.

At the hearing, the FAP net income budgets for December 2014 and for January 1, 2015, ongoing used by the Department in calculating Claimant's FAP benefits (Exhibits C and F) were reviewed with Claimant. The December 2014 budget showed gross monthly unearned income of \$755 and the budgets for January 2015 ongoing showed gross monthly unearned income of \$767. Claimant confirmed that, in December 2014, he received monthly RSDI income of \$350 and monthly SSI of \$391, and that after January 1, 2015, he received RSDI income of \$356 and monthly SSI of \$397. Claimant

confirmed that he receives quarterly SSP benefits of \$42. For FAP purposes, Claimant's \$42 SSP benefit every three months results in \$14 of monthly unearned income. BEM 503 (July 2014), p. 33. Therefore, the budget properly shows \$755 in gross monthly unearned income for December 2014, the sum of the \$350 RSDI, \$391 SSI and \$14 SSP, and \$767 in gross monthly unearned income for January 1, 2015, ongoing, the sum of the \$356 RSDI, \$397 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.

Based on Claimant's one-person FAP group, Claimant was eligible for a \$154 standard deduction, as shown on the budgets. RFT 255 (October 2014), p. 1. Claimant confirmed that he had no day care or child support expenses. Therefore, the budget properly showed \$0 for those deductions. The budget shows that the Department budgeted a \$61 towards medical expenses, which Claimant did not dispute. Based on these deductions, Claimant's adjusted gross income was \$540 for December 2014 and \$552 for January 2015 ongoing, as shown on the budgets.

The final deduction available in calculating FAP benefits is the excess shelter deduction. The excess shelter deduction is equal to the sum of (i) monthly shelter expenses and (ii) the applicable utility standard for any utilities the client is responsible to pay, **less** 50% of a client's adjusted gross income for the month. BEM 556, pp. 4-5. While Claimant testified that his rent increased to \$220 effective May 2015, he acknowledged that, for the months at issue, his monthly rent was \$217 as shown on the excess shelter deduction budgets (Exhibits C and F).

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, as a result 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. 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 he 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 testified at the hearing that the only utility he was responsible for paying was telephone. The telephone standard is \$34, as shown on the excess shelter deduction. RFT 255, p. 1. Because the sum of Claimant's \$217 rent and \$34 telephone did not exceed one-half of his adjusted gross income for December 2014 or January 2015 ongoing, Claimant's excess shelter deduction was \$0, as shown on the budgets. BEM 556 (July 2013), p. 5.

Based on a FAP group size of one and net income of \$540 for December 2014 and \$562 for January 2015 ongoing, Claimant was eligible for monthly FAP benefits of \$32 for December 2014 and \$28 for January 2015 ongoing. RFT 260 (October 2014), pp. 7-8. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits for December 2014 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: **5/6/2015**

Date Mailed: **5/7/2015**

ACE / pf

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]
[REDACTED]
[REDACTED]