

**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.: 15-005534
Issue No.: 3008
Case No.: ██████████
Hearing Date: May 13, 2015
County: Wayne-District 19 (Inkster)

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 May 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate 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 is an ongoing recipient of FAP benefits.
2. Claimant has four grandchildren in her household.
3. Claimant receives \$1169 in total Retirement, Survivors and Disability Insurance (RSDI) benefits (\$439 from widow's benefits), \$557 in Family Independence Program (FIP) benefits, and \$42 in quarterly State SSI Payment (SSP).
4. On January 27, 2015, the Department notified Claimant that her FAP benefits were decreasing to \$306 monthly.
5. On April 7, 2015, Claimant filed a request for hearing disputing the Department's calculation.

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 because she disputed the reduction of her FAP benefits and pointed out that the Department had failed to include her monthly \$817.40 shelter expenses in calculating her FAP benefits. A January 27, 2015, Notice of Case Action notified Claimant that her FAP benefits were decreasing to \$306 monthly effective March 1, 2015. At the hearing, the Department testified that Claimant's FAP benefits had decreased from \$678 to \$491 in February 2015 and then to \$306 effective March 2015. The Department acknowledged that Claimant's shelter expenses had not been included any of those months. Claimant credibly testified that she had reported her housing expenses in April 2014 and then again in November 2014, when there was a change in the shelter amount.

The Department testified that, upon receipt of Claimant's hearing request, her FAP budget was recalculated to include the monthly \$817.40 shelter expenses. As a result, Claimant's monthly FAP benefits increased to \$485 effective May 1, 2015, and FAP supplements of \$179 each were issued for March 2015 and for April 2015. A benefit summary inquiry printout from the Department's system (Exhibit D), which shows that Claimant was issued \$306 for March 2015 and \$306 for April 2015 and two \$179 supplements on April 17, 2015, one for March 2015 and one for April 2015, confirms that Claimant received a total of \$485 for May 2015 and April 2015.

At the hearing, the information used to calculate Claimant's updated FAP benefits was reviewed with Claimant. The budget on the January 27, 2015, Notice of Case Action showed monthly unearned income of \$1740. Based on \$1169 in RSDI benefits, \$557 in FIP benefits, and \$14 in SSP (the monthly amount budgeted based on the \$42 quarterly payment), the unearned income received by Claimant totaled \$1740 as shown on the budget. BEM 503 (July 2014), p. 33.

Claimant confirmed that she had no child care, child support, or medical expenses, all consistent with the information shown on the January 27, 2015, Notice of Case Action.

Based on the information provided, Claimant was eligible for two deductions: the standard deduction of \$192 based on her five-person FAP group (Claimant and her four grandchildren), as shown on the Notice, and an excess shelter deduction. BEM 550 (February 2014), p. 1; RFT 255 (October 2014), p. 1; BEM 556 (July 2013), pp. 4-5. Based on monthly housing expenses of \$817.40 and the \$553 mandatory heat and utility standard, the most advantageous utility standard available to a client, the excess shelter deduction for Claimant, who the Department testified was a senior/disabled/veteran (SDV) member of the household, is \$596. BEM 556, pp. 4-5; BEM 554 (October 2014), pp. 12-23; RFT 255, p. 1.

When Claimant's gross monthly income of \$1740 is reduced by the \$192 standard deduction and the \$596 excess shelter deduction, Claimant's net income is \$952. Based on net income of \$952 and a FAP group size of five, Claimant was eligible for monthly FAP benefits of \$485. RFT 260 (October 2014), p. 13. Because the Department issued supplements to Claimant so that she received \$485 in FAP benefits for March 2015 and for April 2015, the Department resolved Claimant's FAP issue for those months.

The evidence at the hearing also showed that the Department did not consider Claimant's monthly shelter expenses when it calculated Claimant's FAP benefits for February 2015. Because Claimant raised the issue of the Department's failure to include shelter expenses in her hearing request, the February 2015 FAP budget should be recalculated so that any FAP underissuances are resolved. BAM 406 (July 2013).

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 calculated Claimant's FAP benefits for February 2015 ongoing but resolved the issue for March 2015 ongoing prior to hearing.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP issuances for March 2015 ongoing and **REVERSED IN PART** with respect to FAP issuances for February 2015.

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 benefits for February 2015;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for February 2015; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

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 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]
[REDACTED]
[REDACTED]