

**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.: 15-007938
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 18, 2015
County: Wayne-District 17

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 June 18, 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 Supervisor.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for June 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 receives monthly Supplemental Security Insurance (SSI) benefits of \$733. He receives quarterly State SSI Payments (SSP) benefits of \$42.
3. Claimant completed a redetermination on January 21, 2015 (Exhibit B).
4. In connection with the redetermination, Claimant submitted verification signed by his landlord showing that he paid \$550 monthly and his rent included electric, gas, water, telephone, and laundry (Exhibit D).

5. On May 7, 2015, the Department sent Claimant a Notice of Case Action notifying him that effective June 1, 2015, his monthly FAP benefits were decreasing to \$102 (Exhibit E).
6. On May 20, 2015, Claimant filed a hearing request disputing the Department's actions (Exhibit A).

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 \$194 to \$102 effective June 1, 2015. At the hearing, the May 7, 2015, Notice of Case Action showing the information used to calculate Claimant's FAP benefits (Exhibit E) was reviewed with Claimant.

The budget showed Claimant received monthly unearned income of \$747. Claimant confirmed that he received monthly SSI income of \$733 and quarterly SSP benefits of \$42. For FAP purposes, Claimant's \$42 SSP benefit every three months results in \$14 in monthly unearned income. BEM 503 (July 2014), p. 33. Therefore, the budget properly shows \$747 in gross monthly unearned income, the sum of the monthly \$733 SSI and \$14 SSP.

Because Claimant is over age 65, 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 budget on the Notice. RFT 255 (October 2014), p. 1. Claimant confirmed that he had no day care, child support, or medical expenses. Therefore, the budget properly showed \$0 for those deductions.

In calculating a client's excess shelter deduction for FAP purposes, 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 Notice showed that the Department considered Claimant's \$550 monthly rent, as shown in the verification provided by Claimant (Exhibit D). The utility standard that applies to a client's case is dependent on the client's circumstances. Department policy provides that an individual who is responsible for heating and/or cooling expenses is eligible for the \$553 mandatory heat and utility (h/u) standard, the most favorable utility standard available to a client. BEM 554, pp. 14-20; RFT 255 (October 2014), p. 1. The Department explained that, because Claimant's rent verification showed that all utilities were included in the rent, he was not eligible for any utility standards. However, in his redetermination, Claimant indicated that he had received a home heating credit (HHC) from the State within the previous 12 months (Exhibit B, p. 5). FAP groups at redetermination who received a HHC in the amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the \$553 mandatory h/u standard. BEM 554, p. 18. The Department must verify receipt of the HHC at redetermination. BEM 554, p. 18. Although the Department testified that it had verified Claimant's receipt of the HHC, it failed to apply the \$553 mandatory h/u standard in calculating his FAP benefits. Therefore, the Department did not act in accordance with Department policy in calculating Claimant's FAP benefits for June 1, 2015, ongoing.

At the hearing, the Department testified that Claimant had recently become responsible for non-heat electric bills and provided the Department with verification of his payment at the hearing. Because this verification was first provided at the hearing and it is a reported change, the information may affect future FAP benefits in accordance with policy. Claimant is advised he can request a hearing if he is unsatisfied with the Department's actions.

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 benefits for June 1, 2015, ongoing;
2. Issue supplements to Claimant for any FAP benefits he is eligible to receive but does not from June 1, 2015, ongoing; 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: **6/24/2015**

Date Mailed: **6/24/2015**

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

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