

**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.: 15-008325
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 22, 2015
County: Wayne-District 15

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 June 22, 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. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed. (Exhibit A)
3. On May 1, 2015, the Department sent Claimant a Notice of Case Action informing her that effective June 1, 2015, she was approved for FAP benefits in the amount of \$23 monthly. (Exhibit B)
4. On May 22, 2015, Claimant requested a hearing disputing the decrease in 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.

In this case, Claimant requested a hearing disputing the decrease in her FAP benefits for the period of June 1, 2015, ongoing. At the hearing, the Department presented the FAP EDG Net Income Results Budget for June 1, 2015, which was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit C).

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 Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), p. 28, 31-32. The Department concluded that Claimant's group had unearned income in the amount of \$760 which it testified came from monthly social security disability benefits. Claimant confirmed the amounts relied on by the Department, therefore the Department properly calculated Claimant's unearned 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 did not have any of the verified expenses referenced above. A review of the redetermination establishes that Claimant reported receiving a home heating credit greater than \$20 and there was no evidence presented that the Department sent Claimant a verification checklist requesting that she submit proof of her home heating credit, which is required by policy.

In addition, Claimant provided a letter in support of her testimony that she received a home heating credit on her income tax return. The letter was read and admitted into the record. (Exhibit 1). At the hearing, the Department did acknowledge that the letter and redetermination reference Claimant receiving a home heating credit that would impact the calculation of her excess shelter deduction and her eligibility for the h/u standard. After the conclusion of the hearing and closure of the record, the Department sent this Administrative Law Judge additional documentation changing its position with respect to Claimant's home heating credit and indicating that the documents provided by Claimant were not acceptable; however, these documents were not admitted into the record and not taken into consideration for purposes of this decision. Therefore, based on the evidence that was presented at the hearing, the Department has failed to establish that it properly calculated Claimant's excess shelter deduction, as Claimant's eligibility for the h/u standard based on her receipt of a home heating credit was not determined.

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 did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$23 effective June 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 June 1, 2015, and
2. Issue FAP supplements to Claimant from June 1, 2015, ongoing, in accordance with Department policy.



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

Date Signed: **7/02/2015**

Date Mailed: **7/02/2015**

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:

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