

**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.: 15-008553
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 29, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FAP benefits.
2. On March 3, 2015 the Department issued a Notice of Case Action reducing the Claimant's FAP to \$16 a month effective April 1, 2015. Exhibit 4.
3. The Department had erroneously been including \$10,354 in medical expenses when calculating the Claimant's previous FAP benefits in the amount of \$194 causing the benefits to be higher than they should be due to the error.
4. The Claimant receives RSDI in the amount of \$1,027. The Claimant's rent is \$595 monthly. Exhibit 1 and Exhibit 2.

5. The Claimant has not provided the Department with any proof of ongoing medical expenses.
6. At the time of the hearing the Department still had not corrected the Claimant's FAP budget and was again including medical expenses in the amount of \$550 per month that were incorrect for May and June 2015 and were on notice that the FAP benefits were still incorrect and were waiting for a help desk ticket.
7. The Claimant advised the Department on June 9, 2015 that he paid for electricity and will receive \$124 in shelter expenses for non-heat electricity. The Department received the Claimant's verification of electricity on April 14, 2015.
8. The Claimant requested a hearing on May 22, 2015 protesting the reduction 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.

In this case, The FAP budget, which was not submitted by the Department at the hearing but mentioned in its hearing summary and confirmed by its testimony, still included an ongoing medical deduction of \$550, which has still not been corrected. The Claimant has not submitted any ongoing medical expense proofs and therefore should have **no** medical deduction. Although the Department has sought a help desk ticket, the Claimant is not receiving the correct FAP benefits due to this error and is receiving more FAP benefits than he should.

The Department presented a budget to demonstrate that the correct amount of FAP benefits the Claimant should receive is \$16 per month which appeared correct. Based upon rent of \$595, a telephone allowance of \$34 and unearned income of \$1,027, all of which were confirmed as correct; therefore, the budget of April 2015 is correct as is the FAP benefit amount of \$16. The budget was reviewed at the hearing and the rent, unearned income and telephone were confirmed by the Claimant. Exhibit 2.

The Claimant also provided the Department his electric bill on April 14, 2015 and this amount must be included in his FAP budgets for May and June 2015 ongoing. The Department confirmed it had not included the non-heat electric allowance when calculating FAP benefits as it believed the verification had been received on June 9, 2015, which was in error. The Department confirmed receipt of the electric bill as of April 14, 2015.

Lastly, as explained at the hearing, the Department made a huge error when it included \$10,354 in ongoing medical expenses which did not exist. When the medical expenses were deducted from the Claimant's \$1,027 in monthly income, the Claimant was left with \$0 for income, thus making him entitled to the maximum amount of FAP benefits for one person in the amount of \$194. Exhibit 3.

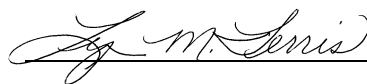
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it certified and continued to include \$550 in medical expenses that it had no verification for when calculating the Claimant's FAP benefits. The Department also did not include the non-heat electric allowance of \$124 for May 2015 and June 2015 ongoing.

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. The Department shall recalculate the Claimant's FAP benefits for May 2015 and June 2015 to include \$124 non-heat electricity allowance ongoing and **shall remove the ongoing incorrect \$550 in medical expenses** and provide the correct amount of FAP benefits for May, June 2015 ongoing.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

Date Mailed: **7/7/2015**
LMF / cl

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]