



4. In a June 24, 2015, Health Care Coverage Determination Notice, the Department notified Claimant that because verification of a second mortgage and homeowner's insurance premiums were not received, those expenses were removed from the FAP budget (Exhibit A, p. 33).
5. On July 8, 2015, Claimant submitted a request for hearing disputing the Department's actions concerning her FAP case. She included a homeowner's insurance policy premium invoice, a DTE energy bill, an invoice from [REDACTED] for \$129.85, a loan statement from [REDACTED] for \$239.28, and medical bills for services rendered in [REDACTED] [REDACTED] (Exhibit A, pp. 7-14).

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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.

As a preliminary matter, it is noted that although Claimant referenced health care coverage in her July 8, 2015, request for hearing, she clarified at the hearing that she did not request a hearing concerning such coverage, only concerning FAP. The hearing proceeded to address her FAP concerns.

The Department testified that, at the time it processed Claimant's redetermination, it determined that she was eligible for \$16 in monthly FAP benefits and presented net income and excess shelter deduction budgets showing the calculation of such benefits (Exhibit A, pp. 18-20). The budgets were reviewed with Claimant at the hearing. Claimant confirmed that she received monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1,161.90 and a monthly pension of \$371.23. Therefore, the net income budget properly showed gross monthly unearned income of \$1,533. Claimant verified that she was over age 60. As such, she was a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (July 2015), pp 1-2. The gross unearned income for SDV members is reduced by the following deductions:

- Standard deduction.
- Dependent care expense.
- Excess shelter, which is based on monthly housing expenses and the applicable utility standard.

- 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; BEM 556 (July 2013), pp. 4-5.

Based on Claimant's one-person FAP group, Claimant was eligible for a \$154 standard deduction. RFT 255 (October 2014), p. 1. Claimant confirmed that she had no day care or child support expenses. Because Claimant received the \$553 mandatory heat and utility standard, the most beneficial utility standard available to a client (RFT 255, p. 1), the only issue presented was the calculation of Claimant's housing expenses in determining her excess shelter deduction and the medical expense deduction in the net income budget.

The excess shelter deduction budget reviewed at the hearing showed monthly housing expenses of \$728.73, which the Department testified was the total of her (i) \$239.28 monthly mortgage expense, (ii) \$440 monthly lot rent, (iii) \$15 monthly lot rent increase, and (iv) \$34.45 monthly homeowners insurance premium. Claimant contended that she had a second mortgage on her home. The Department testified that Claimant did not include verification of a second mortgage expense with her redetermination and, as a result, this expense was removed from her FAP budget.

Department policy provides that the Department should send the DHS-3503, Verification Checklist, after the redetermination interview to request any missing verification. BAM 210 (July 2015), p. 14. Verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. If a client fails to return proof of an expense by the due date, the Department must remove the expense from the budget. While Claimant did not identify the second mortgage on her redetermination, the Department's case notes indicate that she notified the Department of this expense in her telephone interview (Exhibit A, pp. 26, 32). Because the Department became aware of the second mortgage during its interview with Claimant, it did not act in accordance with Department policy when it failed to request verification of the second mortgage before excluding it from the FAP budget.

There was also an issue concerning the medical expense deduction shown on the net income budget. The Department must estimate an SDV member's medical expenses for the benefit period based on (i) verified allowable medical expenses; (ii) available information about the SDV member's medical condition and health insurance; and (iii) changes that can reasonably be anticipated to occur during the benefit period. BEM 554, p. 8.

The FAP net income budget showed a medical expense deduction of \$90. The Department testified that it budgeted \$70 of Claimant's \$105 Part B Medicare premium, which is the excess over the \$35 threshold, and an additional \$20 expense. Claimant did not identify any medical expense in her redetermination, but she submitted proof of the following medical expenses with her July 8, 2015, hearing request: (i) a \$283.57 medical bill [REDACTED]; (ii) a \$358.30 medical bill [REDACTED]; and (iii) a \$243.54 medical bill [REDACTED].

The Department must process medical expenses that the client voluntarily reports and verifies during the benefit period. BEM 554, p. 8. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3. Medical bills may not be overdue, which means they are currently incurred, currently billed, or the client made a payment arrangement before the medical bill became overdue. BEM 554, p. 11. For non-income changes, the action must affect the benefit month that occurs 10 days after the change is reported. BAM 220 (July 2015), p. 10.

Although the Department testified at the hearing that Claimant had been approved for \$16 in monthly FAP benefits, the evidence at the hearing established that Claimant was issued \$100 in FAP benefits in July 2015 and \$169 in FAP benefits in August 2015. The Department explained that, based on verifications Claimant submitted with her hearing request, it recalculated her FAP budget to include the verified expenses. However, the Department admitted that it never issued any notices of case action to Claimant explaining the FAP benefits she was eligible to receive. Thus, the Department did not act in accordance with Department policy when it failed to do so. BAM 220 (July 2015), p. 2.

Furthermore, the FAP budgets for July 2015 and August 2015 admitted into evidence show that Claimant was eligible for \$28 in FAP benefits for July 2015, \$87 in FAP benefits for August 2015, and \$16 for September 2015 (Exhibits B, C and D). The Department presented conflicting evidence concerning Claimant's FAP allotment and was unable to establish that it addressed the FAP issues raised at the hearing, specifically the housing and medical expenses, in Claimant's ongoing FAP budgets. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in this case.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP budget for July 1, 2015 ongoing.

**DECISION AND ORDER**

The Department's FAP 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 July 1, 2015, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2015, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.

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

Date Signed: **9/3/2015**

Date Mailed: **9/3/2015**

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]