

**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.: 15-013941
Issue No.: 3008
Case No.: ██████████
Hearing Date: September 21, 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 September 21, 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, and ██████████, Family Independence Manager.

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 receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1538 based on a disability.
3. Claimant received monthly FAP benefits of \$22 from January 2015 through July 2015.
4. In July 2015, Claimant submitted verification showing his monthly housing expenses.

5. On an unknown date, the Department sent Claimant a Notice of Case Action notifying him that he was eligible for monthly FAP benefits of \$194.
6. After Claimant's FAP budget was recalculated to include the housing expenses, it was discovered that the budget included old medical expenses, which were removed from the budget as ongoing medical expenses.
7. On an unknown date, the Department notified Claimant that he was eligible for monthly FAP benefits of \$16 for August 2015 ongoing.
8. On July 15, 2014, Claimant submitted medical bills dated June 25, 2015 and May 31, 2015.
9. On July 23, 2015, Claimant filed a request for hearing disputing the Department's actions.

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 on July 23, 2015 concerning the decrease of his monthly FAP benefits from \$22 to \$16. At the hearing, Claimant also testified that, after he submitted verification of his housing expenses, he had been sent a Notice of Case Action advising him that his FAP benefit had increased to \$194 monthly, followed by a July 24, 2015 Notice of Case Action notifying him that he was eligible for \$194 in FAP benefits for August 2015 and monthly FAP benefits of \$16 for September 2015 ongoing (Exhibit D). The Department explained that, after Claimant verified his rent, it became aware that it was improperly budgeting medical expenses. After it removed this expense, Claimant was eligible for only \$16 in monthly FAP benefits. The Department further explained that Claimant's FAP allotment for August 2015 increased because he submitted medical bills in July 2015 for one-time medical expenses that were considered in calculating his August 2015 FAP benefits and resulted in an increased FAP allotment of \$194 for August.

At the hearing, the FAP net income budget for September 2015 ongoing used by the Department in calculating Claimant's \$16 monthly FAP allotment (Exhibit C) was reviewed with Claimant. The budget showed gross monthly unearned income of \$1538, which Claimant confirmed.

Because Claimant receives RSDI income based on a disability, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (February 2014), pp 1-2. FAP groups with one SDV member and no earned income are eligible for the following deductions from the group's total income:

- Standard deduction of \$154.
- 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 that exceed \$35.

BEM 554 (October 2014), p. 1; RFT 255 (October 2014), p. 1.

The budget showed the \$154 standard deduction applicable to Claimant's case. Claimant confirmed that he had no day care or child support expenses, as shown on the budget.

An SDV member's allowable out-of-pocket medical expenses over \$35 that are not overdue are valid deductions to the member's FAP budget. BEM 554, p. 8. The expenses must be incurred, or reasonably expected to be incurred, during the client's benefit period. BEM 554, pp. 8-9.

In this case, Claimant's certification period runs from June 1, 2014 to May 31, 2016. The only medical expense shown on the FAP budget was \$70, which the Department explained was the excess of Claimant's \$104.90 Medicare Part B premium over the \$35 threshold. The Department testified that this was the remaining ongoing medical expense Claimant incurred after it removed old expenses from Claimant's FAP budget. The Department provided documentation showing that the medical expenses it removed were for services incurred and reported prior to May 1, 2014 (Exhibit E). Because these expenses were not incurred or billed during the current certification period and were not ongoing expenses, they were properly removed.

It is noted that Claimant submitted additional medical expenses on July 15, 2015 (Exhibit A) which the Department budgeted solely for the month of August, with the result that Claimant got FAP benefits of \$194, the highest FAP allotment for a one-person FAP group, for August 2015. The Department notified Claimant of the FAP increase for August 2015 in a July 24, 2015 Notice of Case Action (Exhibit D). Because the Department took this action after Claimant filed his July 23, 2015 hearing request,

the undersigned lacks authority to review the Department's action concerning the processing of the medical expenses. Claimant is advised that he can request a hearing in accordance with Department policy if he disputes that Department action.

The final deduction available in calculating FAP benefits is the excess shelter deduction, which is based on (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 Department verified that Claimant's rent was \$800, as shown on the excess shelter deduction (Exhibit C, p. 3). Because Claimant has a room air conditioner and is responsible for electrical expenses, he is eligible for the \$553 mandatory h/u standard, the most favorable utility standard available to a client. BEM 554, pp. 16-20. Based on Claimant's \$800 monthly rent and the \$553 utility standard, Claimant's excess shelter deduction was properly calculated at \$696.

When Claimant's gross income of \$1538 is reduced by the \$154 standard deduction and the \$696 excess shelter deduction, Claimant's net income is \$688. Based on a FAP group size of one and net income of \$688, Claimant was eligible for gross monthly FAP benefits of \$16. RFT 260 (October 2014), p. 12. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits for September 2015 ongoing.

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 acted in accordance with Department policy when it calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **9/30/2015**

Date Mailed: **9/30/2015**

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]