

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-002798
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 18, 2014
County: WAYNE (31) and (76).

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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. After due notice, a three-way telephone hearing was held on June 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included Gwendolyn Wilson, Family Independence Specialist, and Larhonda Ellis, Assistant Payment Worker.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective April 1, 2014?

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. On February 25, 2014, Claimant submitted a completed redetermination and indicated Social Security income and a change in address/room/board. See Exhibit 1, pp. 10-13.
3. On March 3, 2014, the Department held a telephone interview with the Claimant in which it was notified that he had moved and had reported social security income.

4. On March 3, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$15 effective April 1, 2014, ongoing. See Exhibit 1, pp. 6-7.
5. On an unspecified date, Claimant's case file was transferred to his new DHS office due to his new shelter location.
6. On May 12, 2014, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1, p. 2.
7. On May 23, 2014, Claimant submitted verification of his shelter expenses in the amount of \$500. See Exhibit 1, p. 8.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

In this case, Claimant is an ongoing recipient of FAP benefits. On February 25, 2014, Claimant submitted a completed redetermination and indicated Social Security income and a change in address/room/board. See Exhibit 1, pp. 10-13. On March 3, 2014, the Department held a telephone interview with the Claimant in which it was notified that he had moved and had reported income. On March 3, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$15 effective April 1, 2014, ongoing. See Exhibit 1, pp. 6-7. On May 12, 2014, Claimant filed a hearing request, protesting his FAP allotment. See Exhibit 1, p. 2.

It was not disputed that the certified group size is one and that Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the April 2014 FAP budget for review. See Exhibit 1, pp. 3-5. The Department calculated a gross unearned income amount of \$1,096. See Exhibit 1, p. 9. This amount comprised of Claimant's Retirement, Survivors, and Disability Insurance (RSDI) income and he did not dispute the gross amount. See BEM 503 (January 2014), p. 28.

Then, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (December 2013), p. 1. The budget also

indicated a child support deduction of \$85.14, which Claimant did not dispute. See Exhibit 1, p. 3 and see BEM 505 (July 2013), pp. 3-5. Also, the budget indicated zero for his medical deductions. However, Claimant testified that he is disabled and receives a net income of \$992 from the Social Security Administration (SSA). Claimant testified that he pays approximately \$104 for his Medicare premium and that this deducted from his SSA income.

For groups with one or more SDV member, the Department uses medical expenses for the SDV member that exceeds \$35. BEM 554 (February 2014), p. 1. Allowable medical expenses include Medicare premiums. See BEM 554, pp. 9-10. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. Verification includes the SOLQ for Medicare premiums. See BEM 554, p. 12.

Based on the foregoing information, the Department improperly calculated Claimant's medical deduction. Claimant is eligible for such medical deduction in excess of \$35. See BEM 554, p. 1. The redetermination reported SSA income on February 25, 2014. See Exhibit 1, p. 11. Moreover, the Department applied his income in the FAP budget, but did not take into factor his Medicare premiums as an eligible deduction. Claimant credibly testified that he does pay for such premiums and the Department failed to rebut Claimant's testimony nor did it provide evidence of his SSA income (e.g., SOLQ). As such, the Department will recalculate Claimant's medical deduction and determine if he is eligible for such deductions. See BEM 554, pp. 1 and 9-12.

Additionally, the Notice of Case Action dated March 3, 2014, indicated his housing costs were zero. See Exhibit 1, p. 7. Claimant disputed this amount and indicated his housing costs and/or shelter cost was \$500. As stated above, on March 3, 2014, Claimant and the Department participated in a telephone interview due to him submitting a redetermination on February 25, 2014. Based on the Department's testimony, it appeared it was only notified that he had moved, but no shelter costs were reported. A review of the redetermination indicated he had reported a change in address/room/board. See Exhibit 1, p. 12. Moreover, Claimant indicated in the expense section that he is responsible to pay room and board. See Exhibit 1, p. 1.

Also, based on the Claimant's testimony, it indicated that he only reported an address change, but was never asked if he had any shelter expenses. Nevertheless, due to the address change, Claimant's case file was transferred to his new DHS office. On May 23, 2014, Claimant submitted verification of his shelter expenses in the amount of \$500. See Exhibit 1, p. 8. The evidence also presented that no shelter verification and/or verification checklist (VCL) was sent to the Claimant to request proof of such expenses.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2014), p. 3. The Department uses a DHS-3503,

Verification Checklist (VCL), to request verification. BAM 130, p. 3. Except, for FAP only, if there is a system-generated due date on the verification form such as a DHS-3688, Shelter Verification, a verification checklist is not required to be sent with the verification form. BAM 130, p. 3. The Department obtains verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1.

In regards to FAP redeterminations, 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 (October 2013), p. 14. The DHS-3503, Verification Checklist should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 14.

Finally, for groups with one or more SDV member, the Department uses excess shelter. BEM 554, p. 1. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. Acceptable verification sources include, but are not limited to a DHS-3688, Shelter Verification form. BEM 554, p. 14. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in the system. BEM 554, p. 14. The due date will be on the form. BEM 554, p. 14. The specialist must monitor for return of the form and take appropriate action if it is or is not returned. BEM 554, p. 14.

Based on the foregoing information, the Department improperly calculated Claimant's shelter expenses effective April 1, 2014, ongoing.

First, redetermination policy does state that a VCL should be sent for FAP benefits for any missing verifications, but it is not required. See BAM 210, p. 14. A review of the FAP redetermination does indicate to submit proofs of the shelter expenses. See Exhibit 1, p. 12. Nevertheless, the Department obtains verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1. On February 25, 2014, Claimant reported a change in address/room/board and that he was responsible to pay his room and board. See Exhibit 1, p. 12. As such, the evidence presented that Claimant notified the Department of shelter expenses, but he did not indicate the amount. The Department should have obtained and/or requested verification of his shelter expense amount because it was an eligibility factor that is unclear, inconsistent, incomplete or contradictory. BAM 130, p. 1.

Second, BEM 554 states a DHS-3688, Shelter Verification form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in the system. BEM 554, p. 14. The due date will be on the form. BEM 554, p. 14. The specialist must monitor for return of the form and take appropriate action if it is or is not returned. BEM 554, p. 14. The evidence presented that no such form was sent to the Claimant because he did report a change of address. The Department

subsequently received verification on May 23, 2014 and it caused an increase in benefits effective July 1, 2013. Nonetheless, the Department failed to send verification of Claimant's shelter expenses when he reported a change of address on February 25, 2014. Thus, the Department will recalculate Claimant's FAP benefits and include shelter expenses in the amount of \$500 effective April 1, 2014, ongoing, for the above stated reasons. See BAM 130, p. 1 and 3; and BEM 554, pp. 1 and 14.

It should be noted that the Department properly applied the heat/utility standard for the Claimant in the amount of \$553. RFT 255, p. 1 and Exhibit 1, p. 7.

DECISION AND ORDER

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 improperly calculated Claimant's FAP benefits effective April 1, 2014.

Accordingly, 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. Begin recalculating the FAP budget for April 1, 2014, ongoing (including \$500 for Claimant's shelter costs and verify eligibility for medical deductions (e.g., Medicare premium)) and in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from April 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/23/2014**

Date Mailed: **6/23/2014**

EJF/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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

cc:

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