

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

**IN THE MATTER OF:**



Reg. No: 201265746  
Issue No: 3002  
Case No: [REDACTED]  
Hearing Date: August 16, 2012  
Livingston County DHS

**ADMINISTRATIVE LAW JUDGE:** Christopher S. Saunders

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 16, 2012. The claimant personally appeared and provided testimony.

**ISSUE**

Whether the department properly determined the amount of the claimant's Food Assistance Program (FAP) benefits?

**FINDINGS OF FACT**

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

1. The claimant has been a recipient of FAP benefits at all times pertinent to this hearing.
2. On July 10, 2012, the claimant was sent a notice of case action (DHS 1605) stating that her FAP benefits would be decreasing as of August 1, 2012. (Department Exhibits 13-14).
3. The claimant filed a request for hearing on July 13, 2012, protesting the reduction of her FAP benefits.

**CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, the department determines the amount of allotment for a FAP group by including all countable income and subtracting allowable expenses. What the department may use as allowable expenses is outlined in BEM 554. In this case, the issue is whether or not the department should have allowed the claimant's lot rent to be included in her shelter expenses. The claimant lives with her mother and testified that each of them are responsible for paying the housing expenses. The claimant lives in a mobile home and has to pay a mortgage on the mobile home and lot rent. The department credited the claimant with the amount of the mortgage she is responsible for, but did not allow the expense of the lot rent because the lease is not in her name. The lease lists the claimant as an occupant, but her mother is the actual signatory on the lease (see Department Exhibit 8).

Policy allows for deductions related to a claimant's shelter expenses. BEM 554 states in pertinent part as follows:

#### **SHELTER EXPENSES**

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense. BEM 554, page 10.

#### **Housing Expenses**

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are **not** allowed. BEM 554, page 10.

Additionally, policy speaks as to what expenses may be allowable to a FAP group on the basis of whose name is listed as a payer on the expense. Policy states:

### **ALLOWABLE EXPENSES**

An expense is allowed if all of the following:

- The service is provided by someone outside of the FAP group.
- Someone in the FAP group has the responsibility to pay for the service in money.
- Verification is provided, if required.

### **Responsibility to Pay**

Responsibility to pay means that the expense is in the name of a person in the FAP group.

**Exception:** If the expense is in someone else's name, allow the expense if the FAP group claims the expense, **and** the service address on the bill is where they live. BEM 554, page 1.

Policy clearly states that lot rent is an allowable expense for a FAP group. Policy also states that expenses can be allowed even if that expense is not in the name of the FAP group member if the claimant claims the expense and the address is where the claimant resides. Here, the claimant resides at the service address of the lot rental expense and has claimed that expense as her own.

The Administrative Law Judge finds that the lot rental should be included in the claimant's budget. Although the rental agreement is not in the claimant's name, policy does allow expenses even if they are not in a claimant's name. Additionally, the lot rent is necessarily tied to the claimant's shelter expenses. Although she does pay a mortgage for her mobile home, she must also pay the lot rent to have somewhere to put said home. Her mortgage and her lot rent are each integral parts of her shelter expense and therefore should both be allowable. Accordingly, the Administrative Law Judge determines that the department should have included the claimant's lot rent as part of her shelter expense.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined the amount of the claimant's FAP benefits.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for FAP benefits, including the claimant's mortgage and lot rent as shelter expenses back to the date of negative action (August 1, 2012). If the claimant is found to be otherwise eligible, the department shall issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/

Christopher S. Saunders  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 24, 2012

Date Mailed: August 24, 2012

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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