

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-41284  
Issue No.: 3002, 3008  
Case No.: [REDACTED]  
Hearing Date: [REDACTED]  
County: Marquette DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED] from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly apply the Claimant's shelter expenses towards her eligibility for the Food Assistance Program (FAP)?

**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 is an ongoing Food Assistance Program (FAP) recipient.
2. On [REDACTED], the Department sent the Claimant a Redetermination (DHS-1010) with a due date of [REDACTED].
3. On [REDACTED] the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of [REDACTED]. The Department requested that the Claimant provide verification of her monthly home rent expense.
4. On [REDACTED] the Department reduced the Claimant's monthly Food Assistance Program (FAP) allotment to \$ [REDACTED] after removing her shelter expense from her FAP budget.

5. The Department received verification of the Claimant's monthly rent expense on [REDACTED].
6. On [REDACTED] the Department increased the Claimant's monthly Food Assistance Program (FAP) allotment to [REDACTED], after adding her verified shelter expense to her FAP budget.
7. The Department received the Claimant's request for a hearing on [REDACTED] [REDACTED] protesting the reduction of her Food Assistance Program (FAP) from [REDACTED].

### **CONCLUSIONS OF LAW**

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.0

The Department must verify shelter expenses at application and when a change is reported. If a client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2012), p 11.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient.

On [REDACTED], the Department sent the Claimant a Redetermination (DHS-1010) with a due date of [REDACTED]. On [REDACTED], the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of [REDACTED]. The Department requested that the Claimant provide verification of her monthly home rent expense.

On [REDACTED], the Department reduced the Claimant's monthly Food Assistance Program (FAP) allotment to \$ [REDACTED] after removing her unverified shelter expense from her FAP budget.

The Department received verification of the Claimant's monthly rent expense on [REDACTED].

On [REDACTED], the Department increased the Claimant's monthly Food Assistance Program (FAP) allotment to \$ [REDACTED], after adding her verified shelter expense to her FAP budget.

The Claimant argued that she had provided the Department with verification of her monthly shelter expense before [REDACTED]. The Claimant provided a signed statement from her landlord showing the landlord's assertion that she had completed and mailed out two shelter expense verification forms.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), cert den, 318 US 783 (1943).

This Administrative Law Judge does not dispute that the Claimant's landlord completed two shelter verification forms.

However, it remains the duty of the Claimant to ensure that the Department receives verification of her shelter expense. In this case, the Claimant failed to establish that she supplied the Department with verification of her monthly rent expense. Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly removed the Claimant's shelter expense from her Food Assistance Program (FAP) budget, and properly determined her monthly allotment based on the updated budget.

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

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*/s/*  
**Kevin Scully**  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 05/17/2013

Date Mailed: 05/20/2013

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

KS/kl

cc:

