

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 14-002867  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: June 20, 2014  
County: WAYNE-DISTRICT (15)

**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 telephone hearing was held on June 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist.

**ISSUE**

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits to the amount of \$271 effective June 1, 2014, ongoing?

**FINDINGS OF FACT**

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

1. On March 31, 2014, Claimant applied online for FAP benefits. See Exhibit 1, pp. 6-22.
2. On March 31, 2014, Claimant indicated in her application that she only has a telephone bill (utility) expense and did not indicate any other form of shelter expenses. See Exhibit 1, pp. 6-22.
3. For May 2014, Claimant received \$347 in FAP benefits. See Exhibit 1, p. 4
4. On an unspecified date, the Department updated Claimant's FAP budget and removed her heat and utility standard because she never reported such expenses, other than telephone expenses. See Exhibit 1, p. 1.

5. On May 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$271 effective June 1, 2014, ongoing. See Exhibit 2, pp. 1-2.
6. On May 21, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 2-3.

### **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 May 13, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$271 effective June 1, 2014, ongoing. See Exhibit 2, pp. 1-2. On May 21, 2014, Claimant filed a hearing request, protesting her FAP allotment. See Exhibit 1, pp. 2-3.

It was not disputed that the certified group size is two and that no household members are senior/disabled/disabled veteran (SDV) members. The Department presented the June 2014 FAP budget for review. See Exhibit 1, pp. 23-24. The Department calculated a gross unearned income amount of \$403. See Exhibit 1, p. 9. This amount comprised of Claimant's cash benefits, which she did not dispute. See BEM 503 (January 2014), p. 14.

Then, the Department properly applied the \$151 standard deduction applicable to Claimant's group size of two, which resulted in an adjusted gross income of \$252. RFT 255 (December 2013), p. 1 and see Exhibit 1, p. 23.

Additionally, the Notice of Case Action dated May 13, 2014, indicated Claimant's housing costs were zero. See Exhibit 2, p. 2. Claimant testified that she had housing costs in the amount of \$580 for May 2014 and it increased to \$675 for June 2014. On March 31, 2014, Claimant did not indicate any form of shelter expenses. See Exhibit 1, pp. 6-22. Moreover, Claimant testified that she first notified and provided verification to the Department of housing costs during this hearing.

For groups with no SDV members, the Department uses excess shelter up to the maximum allowed in RFT 255. See BEM 554 (May 2014), p. 1. The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. 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. BEM 554, pp. 12-13. 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.

Based on the foregoing information, the Department properly calculated Claimant's housing expenses in the amount of \$0. Claimant acknowledged that she first notified and provided verification to the Department of housing costs during this hearing. As such, the Department properly calculated Claimant's housing expenses in the amount of \$0 and in accordance with Department policy. See BEM 554, pp. 1 and 12-14.

Also, on March 31, 2014, Claimant indicated in her application that she only had telephone bill (utility) expenses. See Exhibit 1, p. 18. On an unspecified date, the Department updated Claimant's FAP budget and removed her heat and utility standard because she never reported such expenses, other than telephone bills. See Exhibit 1, p. 1. It appears that once the Department removed the heat and utility standard in the amount of \$553, this resulted in Claimant's FAP reduction. The Notice of Case Action dated May 13, 2014, indicated that Claimant did not have a heat/utility standard. See Exhibit 2, pp. 1-2. At the hearing, Claimant testified that she does have heat/utility expense; however, overlooked and/or medical reasons did not indicate such expenses in the application. There was also no evidence presented if heat/utility verifications were provided by the Claimant.

The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. BEM 554, p. 14. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. The Department does not require verification of the other utility standards if the household is already eligible for the h/u standard. BEM 554, p. 15.

**Effective May 1, 2014**, when the Department processes applications, redeterminations, or when a change is reported clients are not automatically allowed the h/u standard. BEM 554, p. 15.

All new FAP applications that were not certified before March 10, 2014, when the Agricultural Act of 2014 went into effect, will be reprocessed to follow the MANDATORY HEAT AND UTILITY STANDARD section in BEM 554 and will be required to provide verification once the systems changes are completed on May 1, 2014. BEM 554, p. 15.

For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first

redetermination or first reported case change occurring on or after May 1, 2014. BEM 554, p. 15.

Based on the effective policy of May 1, 2014, the Department properly removed Claimant's heat/utility standard. The evidence presented that Claimant never reported the heat/utility expenses and never provided such verification. As such, the Department properly removed Claimant's heat and utility standard in accordance with Department policy. See BEM 554, p. 15.

However, a FAP group which has no heating/cooling expense but has a responsibility to pay for a traditional land-line service, cellular phone service including per-minute or per-call service and voice over Internet protocol (VoIP) must use the telephone standard. BEM 554, p. 20. The standard covers only the telephone expense. BEM 554, p. 21. The Department does not verify the telephone expense, unless questionable. BEM 554, p. 21. RFT 255 indicates the standard deduction for telephone expenses is \$34. See RFT 255, p. 1.

Based on the foregoing information and evidence, the Department failed to include a standard telephone deduction for the Claimant effective June 1, 2014. As stated above, the Department properly removed the heat and utility standard, but Claimant's application indicated she had a telephone expense. See Exhibit, 1 p. 18. There is no evidence to indicate that the telephone expense is questionable, therefore, verification is not necessary. See BEM 554, p. 21. Thus, the Department will recalculate Claimant's FAP benefits and only include the standard telephone deduction for the Claimant effective June 1, 2014. BEM 554, pp. 20-21 and RFT 255, p. 1.

### **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 June 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 and only include the standard telephone deduction for the Claimant effective June 1, 2014, in accordance with Department policy;

2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 1, 2014; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.



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

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]