

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

IN THE MATTER OF:

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Reg. No.: 14-005407
Issue No(s): 3001
Case No.: ██████████
Hearing Date: July 30, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 July 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine Claimant's eligibility for 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 FAP recipient.
2. Claimant was recently assigned a new worker.
3. Claimant's new worker re-evaluated her eligibility for FAP benefits and determined that there was no proof that Claimant paid shelter expenses.
4. After the shelter expense was removed, the Department notified Claimant that she would receive \$370.00 in FAP benefits effective May 1, 2014.
5. On May 15, 2014, Claimant provided proof of her shelter expenses.

6. On June 23, 2014, the Department sent a Notice of Case Action notifying Claimant that her benefits would increase to \$584.00 effective July 1, 2014 and that she would receive \$418.00 effective August 1, 2014.
7. On July 8, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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.

May 2014 FAP Benefits

Claimant filed a Request for Hearing regarding the amount of benefits she received in May 2014. Claimant received \$283.00 in April 2014 and \$370.00 in May 2014. The Department redetermined Claimant's eligibility for benefits and issued a supplement for the month of April but not the month of May 2014.

Department policy allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, May 1, 2014), p. 12. The Department representative appearing at the hearing testified that she had recently been assigned to Claimant's FAP case. After reviewing the file, the newly assigned worker determined that there was no proof of shelter expenses. Claimant's newly assigned worker removed the shelter expense from Claimant's eligibility and as a result, Claimant received \$370.00 effective May 1, 2014. Claimant testified that she has lived in the same apartment for the past three years. Claimant had previously been receiving the shelter deduction. Claimant maintained that she has consistently paid rent and that she provided the updated shelter verification at the request of the Department. The Department stated that it had no reason to believe that Claimant did not have shelter expenses during the month of May. Accordingly, it is found that Claimant was entitled to a shelter deduction for the month of May and the Department therefore improperly removed the deduction from Claimant's eligibility

August 2014 FAP Benefits

A FAP group which has no heating/cooling expense but has a responsibility to pay for non-heat electricity separate from rent/mortgage or condo/maintenance fees must use the non-heat electric standard. The standard covers **only** non-heat electric. BEM 554,

p. 19. Regarding Claimant's FAP benefits effective August 1, 2014, the Department presented a budget which showed that Claimant was eligible to receive \$456.00 in FAP benefits. However, the Notice of Case Action sent to Claimant on June 23, 2014 notified Claimant that she would receive \$418.00 effective August 1, 2014. The budget contained a non-heat electric standard. The calculations contained in the Notice of Case Action did not contain a non-heat electric standard. The Department was unable to explain why the non-heat electric standard did not appear in the calculations contained in the Notice of Case Action. The Department confirmed that Claimant was eligible to receive the non-heat electric standard.


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 policy when it removed the shelter deduction from Claimant's eligibility for May 2014 and also did not act in accordance with policy when it failed to allow for the non-heat electric standard.

DECISION AND ORDER

Accordingly, the Department's 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. Recalculate Claimant's eligibility for FAP benefits for May 2014 to include a shelter deduction;
2. Issue any supplements Claimant was eligible to receive but did not in May 2014;
3. Recalculate Claimant's eligibility for FAP benefits effective August 1, 2014, ongoing;
4. Issue any supplements Claimant was eligible to receive but did not effective August 1, 2014, ongoing; and
5. Notify Claimant in writing of its decision.


JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 5, 2014

Date Mailed: August 5, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JAM/cl

cc:

[REDACTED]
[REDACTED]
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