

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.

Additionally, Claimant disputed the calculation of her monthly FAP benefits. The Department did not present a FAP net income budget showing the calculation of Claimant's FAP benefits for July 1, 2014, ongoing. Therefore, the information on the July 1, 2014, Notice of Case Action was reviewed with Claimant. Claimant confirmed that she received monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$585, monthly Supplemental Security Income (SSI) benefits of \$156, and quarterly State SSI Payments (SSP) of \$42. The sum of Claimant's RSDI, SSI, and monthly SSP (\$14 based on \$42 quarterly payment) is \$755, which is consistent with the unearned income amount shown on the Notice of Case Action. Claimant confirmed that she was the sole member of her FAP group, that she had no day care or child support expenses, and that she had no out-of-pocket medical expenses greater than \$35. The only issue presented at the hearing was the Department's exclusion of Claimant's rent and utility expenses.

In calculating a client's FAP eligibility, the client is eligible for a deduction to gross income for excess shelter expenses, which is based on the client's monthly shelter expense and the applicable utility standard. BEM 556 (July 2013), pp. 4-5. A group is allowed a shelter expense when it has a shelter expense or contributes to the shelter expense. BEM 554 (May 2014), p. 12. The mandatory heat and utility (h/u) standard, currently \$553, is available for FAP groups that (i) are responsible for heating expenses separate from rent or mortgage; (ii) are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554 (May 2014), pp. 16-19; RFT 255 (December 2013), p. 1.

In this case, the Department's Notice of Case Action shows that it did not consider any shelter expenses in calculating Claimant's FAP budget and concluded that she was

eligible for only a telephone standard. However, Claimant testified that she had monthly rent of \$182 and was responsible for heat and electricity, making her eligible for the \$553 mandatory h/u standard, and that she had identified these expenses in her application.

A client must verify shelter expenses and that heating and cooling expenses are separate from housing costs at application. BEM 554, pp. 14, 16. However, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2014), p. 3. Although the Department presented a history of correspondence showing that a shelter verification form, DHS-3688, was sent to Claimant on July 7, 2014, Claimant was notified that she was eligible for only \$15 in monthly FAP benefits on July 1, 2014, before any shelter verification form was sent. Furthermore, Claimant testified that she had her landlord complete the form and she had the form and her utility bills faxed to the Department. Claimant's daughter testified that the fax number on the shelter verification was not working; however, the Department did not introduce a copy of the form into evidence to establish the fax number on the document and the worker at the hearing did not dispute Claimant's testimony. Under the evidence presented, the Department failed to establish that it properly sought verification of Claimant's rent and utilities.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when excluded Claimant's shelter expenses and the mandatory h/u standard in calculating her FAP benefits.


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 FAP budget for June 10, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 10, 2014, ongoing; and

3. Notify Claimant in writing of its decision in a DHS-1605, Notice of Case Action.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/23/2014**

Date Mailed: **9/23/2014**

ACE / pf

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]