

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-013389  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: November 12, 2014  
County: Gratiot

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 November 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly determine the Claimant's monthly 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. On September 23, 2014, the Claimant returned a Redetermination (DHS-1010).
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
4. The Claimant has a monthly housing expense of \$ [REDACTED].
5. The Claimant's does not have an obligation for heating expenses, but does pay for electricity and telephone separate from his shelter expenses.
6. The Department determined that effective November 1, 2014; the Claimant is entitled to a monthly Food Assistance Program (FAP) allotment in the monthly amount of \$ [REDACTED].
7. On October 3, 2014, the Department received the Claimant's request for a hearing protesting the amount of his Food Assistance Program (FAP) benefits.

### 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.

For all FAP groups that received the heat and utility standard deduction on or before February 7, 2014, the heat and utility standard deduction 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. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 18.

The Claimant was an ongoing Food Assistance Program (FAP) recipient as a group of one when he returned his Redetermination (DHS-1010) as part of the Department's routine evaluation of his eligibility to receive continued benefits. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. The Claimant's adjusted gross income of \$ [REDACTED] was determined by reducing his total monthly income by the \$ [REDACTED] standard deduction.

The Claimant has a monthly housing expense of \$ [REDACTED] and is obligated to pay for electricity and telephone expenses. Heating expenses are included in the Claimant's monthly housing expense and he is not entitled to the standard heat and utility deduction. The Claimant's total monthly shelter expenses of \$ [REDACTED] were determined by adding his \$ [REDACTED] housing expense to the \$ [REDACTED] standard electricity deduction and the \$ [REDACTED] telephone expenses deduction. The Claimant's total monthly shelter expenses are less than 50% of his adjusted gross income and he is not entitled to a monthly excess shelter deduction.

FAP groups who are at redetermination or have their first case change and have received a LIHEAP payment or a LIHEAP payment was made on their behalf in an amount greater than \$ [REDACTED] in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. BEM 554, p 19.

The Department presented substantial evidence that shows the Claimant received a home heating credit in the amount of \$ [REDACTED].

Since the Claimant does not receive an excess shelter deduction, his net income is the same as his adjusted gross income. A group of one with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.

The Claimant argued that his Food Assistance Program (FAP) should not be reduced as a result of a reduction of the amount home heating credits he is entitled to.


Whether Food Assistance Program (FAP) are entitled to countable deductions against their monthly gross income is determined by Department policy. In this case, the Claimant had previously received credit for heat and utility expenses when he did not have an obligation for these expenses. Changes to Department policy made the Claimant ineligible to receive these credits.

Administrative Law Judges have no authority to make exceptions to the department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 acted in accordance with Department policy when it determined the Claimant's monthly allotment of Food Assistance Program (FAP) benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

  
\_\_\_\_\_  
Kevin Scully  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

KS/las

**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:

