

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

IN THE MATTER OF:



Reg. No.: 14-014967
Issue No.: 3008
Case No.: 102802817
Hearing Date: December 02, 2014
County: Oakland-District 2

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 December 2, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine the amount of Food Assistance Program (FAP) benefits the Claimant was entitled to receive?

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. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$721, and monthly state Supplemental Security Income (SSP) in the gross monthly amount of \$14.
3. On September 10, 2014, the Department notified the Claimant that he would receive a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.
4. On October 23, 2014, the Department notified the Claimant that he would receive a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits.
5. On October 28, 2014, the Department received the Claimant's request for a hearing protesting the amount of his monthly Food Assistance Program (FAP) allotment.

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.

The heat/utility (h/u) standard covers all heat and utility costs including cooling. The Department will not prorate the h/u standard even if the heating/cooling expense is shared. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. When processing applications, redeterminations, or when a change is reported, FAP recipients are not automatically allowed the h/u standard. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), pp 14-15.

The Department will consider only the medical expenses of disabled persons in the Food Assistance Program (FAP) eligible group. BEM 554, p 8.

The Claimant is an ongoing Food Assistance Program (FAP) recipient. The Claimant receives monthly unearned income in the gross monthly amount of \$ [REDACTED] which was determined by totaling his monthly Supplemental Security Income (SSI) benefits, his advanced Supplemental Security Income (SSI) benefits, and his state Supplemental Security Income (SSP) benefits. The Claimant's adjusted gross income of \$ [REDACTED] was determined by subtracting the standard \$ [REDACTED] deduction from his total income. The Claimant's \$ [REDACTED] excess shelter deduction was determined by subtracting 50% of his adjusted gross income from his \$ [REDACTED] monthly housing expense. The Claimant did not provide any verification of any additional shelter expenses effective November 1, 2014, or allowable one-time or ongoing medical expenses.

The Claimant's net income of \$ [REDACTED] was determined by subtracting the excess shelter deduction from 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 had moved from Macomb County to Oakland County. The evidence provided by the Department is sufficient to support how the Department determined the Claimant's Food Assistance Program (FAP) benefits as of November 1, 2014, based on the verifiable information supplied by the Claimant up to that point. The Department failed to provide evidence supporting whether the Claimant received proper credit for his expenses for October of 2014.


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 Food Assistance Program (FAP) eligibility effective November 1, 2014, and failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Claimant's Food Assistance Program (FAP) eligibility effective October 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Food Assistance Program (FAP) benefits effective November 1, 2014, and **REVERSED IN PART** with respect to Food Assistance Program (FAP) benefits effective October 1, 2014.

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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of October 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.


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

Date Signed: **12/5/2014**

Date Mailed: **12/5/2014**

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:

