

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015445
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: December 10, 2014
County: OAKLAND-DISTRICT 4

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor (AP Supervisor).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment?

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 received a FAP monthly allotment of \$ [REDACTED] in August 2014.
2. Claimant's FAP case was put in negative action with a code for unable to locate based on returned mail.
3. When Claimant contacted the Department, the negative action was removed, she was allowed to re-verify her information, and the ongoing eligibility was reviewed under the recently updated policy regarding utility expenses.
4. On August 27, 2014, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED] effective September 1, 2014.
5. On September 19, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed by the September 29, 2014 due date.

6. On September 23, 2014, Claimant spoke with the AP Supervisor about issues with returned mail and obtaining the verification and an extension of the due date was allowed until October 8, 2014.
7. On October 3, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed by the October 8, 2014 due date.
8. Between October 1, 2014 and October 14, 2014, Claimant and the AP Supervisor had several additional phone contacts regarding the needed verification of utility expenses.
9. On October 24, 2014, Claimant filed a request for hearing contesting the Department's action.

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. Heat and utility expenses can also be included as allowed by policy. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility (h/u) standard. The Department now includes only the utilities for which a client is responsible to pay. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. A FAP group which has no heating/cooling expense but has a responsibility to pay for non-heat electricity separate from rent/mort-gage or condo/maintenance fees, must use the non-heat electric standard. The standard covers only non-heat electric. BEM 554.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130.

In this case, Claimant received a FAP monthly allotment of \$ [REDACTED] in August 2014. Claimant's FAP case was put in negative action with a code for unable to locate based on returned mail.

When Claimant contacted the Department, the negative action was removed, she was allowed to re-verify her information, and the ongoing eligibility was reviewed under the recently updated policy regarding utility expenses. As noted above, effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the h/u standard. On August 27, 2014, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED] effective September 1, 2014.

The Department properly requested verification of utility expenses needed to consider in determining current and ongoing eligibility. On September 19, 2014, a Verification Checklist was issued to Claimant stating what verifications were needed by the September 29, 2014, due date. On September 23, 2014, Claimant spoke with the AP Supervisor about issues with returned mail as well as obtaining the need utility expense verification. An extension of the due date was allowed until October 8, 2014. It is also noted that the AP Supervisor offered to assist with obtaining the verification. The October 3, 2014, Verification Checklist is consistent with the allowed extension and new due date of October 8, 2014.

Between October 1, 2014 and October 14, 2014, Claimant and the AP Supervisor had several additional phone contacts. On September 30, 2014, the Department received a handwritten letter from Claimant, but this could not be used as an acceptable verification of the utility expense. In part, it was noted that Claimant's daughter signed but she was not living with Claimant at the Florence street address. The parties' testimony indicated that the other letter Claimant believed she dropped off in October

2014, which the Department did not receive, was for a new address where Claimant lives with her daughter. Therefore, this other letter was not the outstanding utility expense verification needed for the Florence Street address for September into October 2014.

The evidence establishes that the Department properly reviewed Claimant's ongoing eligibility for FAP under the recently updated policy and requested verification of utility expenses. As cited above, effective May 1, 2014, when processing applications, redeterminations, or when a change is reported, clients are not automatically allowed the heat and utility (h/u) standard. Thus, Claimant was initially determined to be eligible for a FAP monthly allotment of \$█ effective September 1, 2014. The Department then properly requested verification of utility expenses, allowed an extension of the due date, and offered to assist Claimant with obtaining the needed verification. The Claimant did not provide acceptable utility expense verification for the Florence Street address for September into October 2014. Therefore, the Department could not consider utility expenses for determining her FAP monthly allotment.

If she has not already done so, Claimant may provide current utility expense verification to the Department for consideration in determining her ongoing FAP eligibility.

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 Claimant's FAP monthly allotment.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/15/2014**

Date Mailed: **12/15/2014**

CL/hj

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 48909-8139

cc:

