

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015757
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: December 08, 2014
County: WAYNE- 57 (CONNER)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Path FIS Worker, who was located at the [REDACTED] Office.

ISSUE

Did the Department properly reduce the Claimant's food assistance 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 was an ongoing recipient of Food Assistance (FAP).
2. The Department issued a Notice of Case Action on September 13, 2014, which decreased the Claimant's food assistance allotment to [REDACTED] Exhibit 1
3. On October 28, 2014, the Claimant requested a hearing protesting the reduction of his food assistance 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 Mach Admin Code, R 400.3001 to .3015.

Additionally, in this case the Claimant's food assistance was decreased due to a change in Department Policy, which eliminated the utility allowance if a FAP recipient does not directly pay for heat and utility expenses. Previously, Department Policy automatically included a heat in utility allowance of ██████ monthly, regardless of whether heat and electric utilities were paid for by the Claimant. This allowance had the effect of increasing the shelter expenses; thereby, increasing the amount of food assistance because gross income was reduced by the shelter expense. Said differently, a higher shelter expense reduces gross income; thereby, as a general rule increasing FAP benefits.

In this case, the parties agreed that the Claimant's rent was ██████ at the time of the redetermination, and that the Claimant was not paying utilities for heat or electricity. Thus, the Department correctly determined that the Claimant's shelter expense only included the rent and not the utility standard for heat and electricity, as the Claimant is not responsible to pay these utilities. There was no dispute as to group size of one member and income of ██████, based on a ██████ in SSI and ██████ quarterly supplement. Thus, the only issue that could be considered which affected the FAP allotment was the shelter expenses.

In calculating a client's excess shelter deduction, the Department considers the client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. The utility standard that applies to a client's case is dependent on the client's circumstances. The mandatory heat and utility (h/u) standard, which is currently ██████ and the most advantageous utility standard available to a client, is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that 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 ██████ 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.

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 that the FAP group has responsibility to pay. BEM 554, p. 19.

Although not discussed during the hearing in this case, the Claimant may be entitled to a [REDACTED] allowance for cell phone or land line if the client has no heating/cooling expense, but has a responsibility to pay for traditional land-line service or cell phone service. If the client does pay for cell phone or landline service, he must provide verification of that expense to the Department. BEM 554, pp. 19-24; RFT 255, p. 1.

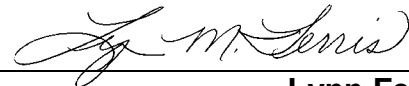
Based on the information Claimant provided at the time of application, the Department properly concluded that Claimant was not eligible for the mandatory h/u standard or any individual utility standards. A review of Claimant's budget shows that the Department correctly reduced the Claimant's Food Assistance.

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 reduce the Claimant's Food Assistance due to a change in Department heat in utility allowance standard.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/9/2014**

Date Mailed: **12/9/2014**

LMF / tm

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:

