

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

IN THE MATTER OF:



Reg. No.: 14-011922
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 15, 2014
County: Kent -1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 October 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] and Family Independence Manager [REDACTED].

ISSUE

Did the Department properly determine Claimant's 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. Claimant was an on-going FAP recipient. She had been receiving FAP prior to May 1, 2014
2. On July 24, 2014, the Department received verification that Claimant's rent expense included her utilities. (Exhibit 1 Pages 2-3.)
3. The Department removed the heat and utility standard from Claimant's FAP budget, and on September 3, 2014, mailed to Claimant a Notice of Case Action (NCA) informing her that her FAP would decrease to [REDACTED] per month effective October 1, 2014. (Exhibit 1 Pages 10-15.)
4. The Department received Claimant's hearing request on September 10, 2014.

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.

Effective May 1, 2014, the Department ceased automatically providing Claimants with the heat and utility (h/u) standard in their FAP budget. BPB 2014-011 (4/1/14). There was an exception, however, for FAP groups that received the h/u standard on or before February 7, 2014. In those cases, the h/u standard would “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.” In this case, Claimant’s first redetermination after May 1, 2014, was in July 2014. Therefore, she should have been allowed the h/u standard in her FAP budget for the five months after July 2014. In other words, she should have been allowed the h/u standard for the months of August through December 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 did not act in accordance with Department policy when it removed the h/u standard from Claimant’s FAP budget.

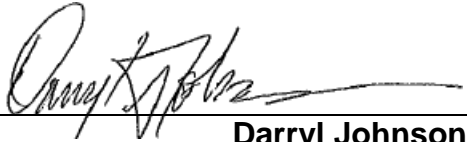
DECISION AND ORDER

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. Redetermine Claimant’s FAP benefits, consistent with BPB 2014-011 (4/1/14).

2. Issue a supplement to Claimant for any benefits improperly not issued.


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/17/2014**

Date Mailed: **10/17/2014**

DJ/jaf

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:

