

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-015414
Issue No.: 3008
Case No.: ██████████
Hearing Date: December 11, 2014
County: Van Buren

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 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ and ██████████ ██████████.

ISSUE

Did the Department properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

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 October 3, 2014, the Department notified the Claimant that he was eligible for Food Assistance Program (FAP) with a monthly allotment of \$ ██████████.
3. On October 20, 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.

The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses. Food Assistance Program (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 clients are not automatically allowed the h/u standard. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), pp 14-15.

The Claimant is an ongoing Food Assistance Program (FAP) recipient. On October 3, 2014, the Department reviewed the Claimant's eligibility for continuing benefits and determined that he does not have an obligation to pay for heat or cooling expense separate from his monthly shelter expenses. After removing his expense credit from his Food Assistance Program (FAP) budget, the Department determined that he was eligible for an ongoing allotment of Food Assistance Program (FAP) benefits in the monthly amount of \$ [REDACTED] as of November 1, 2014.

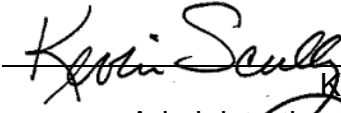
The Claimant argued that given his physical condition and his fixed income that he is deserving of additional benefits. The Claimant testified that he would likely qualify for additional benefits if the Department would provide him with additional assistance with the eligibility process.

Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals and 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 eligibility for Food Assistance Program (FAP) benefits as of November 1, 2014.

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: **12/15/2014**

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

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:

