

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018930
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: January 29, 2015
County: GENESEE-DISTRICT 6

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 January 29, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator.

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 is an ongoing FAP recipient.
2. Claimant's FAP budget previously did not include any shelter expense because no shelter expense was reported, but did automatically include a heat/utility standard (h/u standard).
3. The Department's policy changed and after a 5 month delayed implementation period, the h/u standard could no longer be budgeted because Claimant had not reported any heat or utility expense.
4. On November 15, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective December 1, 2014.
5. Claimant's Supplemental Security Income (SSI) income was going to increase effective January 2015.

6. The Department updated Claimant's FAP budget to include the increase in SSI income.
7. On December 6, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$█ effective January 1, 2015.
8. On December 17, 2014, Claimant orally requested a hearing contesting the Department's actions and reported a shelter expense.
9. The Department is following up on the recently reported shelter expense for determining Claimant's ongoing FAP monthly 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.

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 (2-1-2014), p.1. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security income (SSI) and Retirement Survivors and Disability Insurance (RSDI) benefits are counted as unearned income. BEM 503 (7-1-2014) pp. 28 and 32. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (10-1-2014) p. 12. 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. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. 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. BEM 554, pp. 14-20.

Delayed Implementation of Changes Due to Agricultural Act of 2014 (End of the Dollar LIHEAP Program) For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will 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 order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section. BEM 554, p. 15.

Claimant testified he was concerned that his FAP benefit was reduced twice within two weeks.

Previously, Claimant had not reported any shelter or utility expenses, but had automatically qualified for the full h/u standard and received a FAP monthly allotment that was about \$98. However, the Department's policy has changed. 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. The Hearing Facilitator credibly testified that by December 2014, Claimant had already received FAP benefits with the extra five months of the full h/u standard remaining in place for the delayed implementation period. During those 5 months, Claimant had not reported that he had any shelter or utility expenses. Accordingly, Claimant was no longer eligible for the h/u standard and still did not have any reported shelter expense to include in the FAP budget. Claimant's FAP budget was therefore recalculated without any shelter or utility expenses, resulting in the decrease in the monthly allotment to \$19 effective December 1, 2014.

Next, the Department verified that Claimant's SSI income was going to increase effective January 1, 2015. Accordingly, Claimant's FAP budget was recalculated with the increase in SSI income, and still without any reported shelter or utility expenses, resulting in the decrease in the monthly allotment to \$█ effective January 1, 2015.

The Hearing Facilitator credibly testified that Claimant did not report having a shelter expense until he called the Department on December 17, 2014. The Hearing Facilitator credibly testified that the Department is following up on the recently reported shelter expense for determining Claimant's ongoing FAP monthly allotment.

The evidence shows that the Department properly determined Claimant's FAP monthly allotment for December 2014 and January 2015 based on the information available to them at the time of the case actions. Claimant no longer automatically qualified for the full h/u standard, had not reported that he had any shelter or utility expenses, but did have a change in unearned income.

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 Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

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:

