

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018429
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: January 22, 2015
County: Delta

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, January 22, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant and her sister, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES and [REDACTED], FIM.

ISSUE

Due to excess income, did the Department properly reduce Claimant's benefits for 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. Claimant received FAP benefits.
2. On November 26, 2014, the Department reduced Claimant's benefits due to excess income and the loss of the home heating credit due to a department policy change.
3. On November 26, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On December 17, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

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 \$ [REDACTED] 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, mortgage or condominium/maintenance payments; (ii) that are responsible for cooling (including room air conditioners) and verify that they have the responsibility for non-heat electric; (iii) whose heat is included in rent or fees **if** the client is billed for excess heat by the landlord, (iv) who have received the home heating credit (HHC) in an amount greater than \$ [REDACTED] in the current month or the immediately preceding 12 months, (v) who have received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf in an amount greater than \$20 in the current month or in the immediately preceding 12 months prior to the application/recertification month; (vi) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (vii) who have **any** responsibility for heating/cooling expense (based on shared meters or expenses). BEM 554 (October 2014), pp. 16-20; RFT 255 (October 2014), p. 1.

To show responsibility for heating and/or cooling expenses, acceptable verification sources include, but are not limited to, current bills or a written statement from the provider for heating/cooling expenses or excess heat expenses; collateral contact with the landlord or the heating/cooling provider; cancelled checks, receipts or money order copies, if current as long as the receipts identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense; DHS-3688 shelter verification; collateral contact with the provider or landlord, as applicable; or a current lease. BEM 554, pp. 16-20. For groups that have verified that they own or are purchasing the home that they occupy, the heat obligation needs to be verified only if questionable. BEM 554, p. 16.

FAP groups not eligible for the mandatory 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. These include the non-heat electric standard (\$ [REDACTED] as of October 1, 2014) if the client has no heating/cooling expense but has a responsibility to pay for non-heat electricity; the water and/or sewer standard (currently \$ [REDACTED] if the client has no heating/cooling expense

but has a responsibility to pay for water and/or sewer separate from rent/mortgage; the telephone standard (currently \$█ if the client has no heating/cooling expense but has a responsibility to pay for traditional land-line service, cell phone service, or voice-over-Internet protocol; the cooking fuel standard (currently \$█ if the client has no heating/cooling expense but has a responsibility to pay for cooking fuel separate from rent/mortgage; and the trash removal standard (currently \$█ if the client has no heating/cooling expense but has a responsibility to pay for trash removal separate from rent/mortgage. BEM 554, pp. 20-24; RFT 255, p. 1.

Additionally, the Claimant had been a recipient of FAP benefits with a redetermination due. Unfortunately, the Claimant was subject to the new policy requiring a redetermination of FAP eligibility and the loss of the home heating credit unless the Claimant actually paid for heating. The Claimant does not pay for heating because it is included in her rent. She does pay for non-electric heat and her phone. The Claimant was approved for Social Security benefits of SSI of \$█ RSDI due to widow's pension of \$█ tribal disbursement of \$█ and State Supplement of \$█ per month for a gross income of \$█ Department Exhibit A1-A3.

As a result of excess income, the Claimant had a decrease in FAP benefits. After deductions from her gross income of \$█ of a \$█ standard deduction for an adjusted gross income of \$█ The Claimant was given a total shelter deduction of \$█ resulting from a housing expense of \$█ telephone standard of \$█ and a non-heat electric standard of \$█ The Claimant was given an adjusted excess shelter deduction of \$0, with a total shelter deduction of \$█ minus 50% of adjusted gross income of \$█ The Claimant had a net income of \$█ which was the adjusted gross income of \$█ minus the excess shelter deduction of \$0. With a net income of \$█ the Claimant qualified with a household group size of 1 for a maximum benefit of \$█ plus \$0 in economic recovery minus 30% of net income of \$█ resulting in a net benefit amount of \$█ Department Exhibit 7-8, and b. On November 26, 2014, the Department sent the Claimant a notice that effective December 1, 2014 that she would be eligible for \$█ a month in FAP benefits. Department Exhibit 3-4.

The Department has met its burden that the Claimant had excess income for FAP resulting in a decrease in FAP benefits from \$█ to \$█ BEM 554.

The Administrative Law Judge, based upon 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 that the Claimant was no longer eligible for the home heating credit resulting in a decrease of FAP benefits.

DECISION AND ORDER

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

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/27/2015**

Date Mailed: **1/27/2015**

CGF/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 48909-8139

cc:

