

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-019079
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 04, 2015
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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, an in-person hearing was held on March 4, 2015, in Inkster, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) 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 requested a hearing on [REDACTED], regarding the amount of her FAP allotment, effective [REDACTED].
2. Claimant did not have a heating expense and did not contribute to the heating expense separate from rent.
3. The Department did not include the heat and utility standard in calculating Claimant's FAP allotment.
4. Claimant had unearned income of \$735.00 per month.
5. Claimant had housing costs of \$159.00 per month.

6. The Department determined that Claimant's FAP allotment was \$27.00, effective [REDACTED].

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 (2/2014) instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Adjusted gross income in a household of one is determined by subtracting a standard amount. Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter deduction, if any. BEM 554 (10/2014)

RFT 255 (10/2014) allows for a non-heat electric standard and a heat and utility standard. BEM 554 (10/2014), p. 16, instructs that the Department must use the heat and utility standard for a FAP group which has a heating expense or contributes to the heating expense separate from rent.

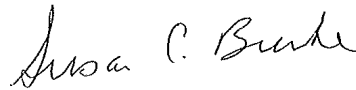
In the present case, the Department did not use the heat and utility standard in calculating Claimant's FAP allotment. Claimant testified that she did not pay a heating expense separate from her rent. The Department was correct, therefore, in not including the heat and utility standard as part of Claimant's FAP budget.

In addition, Claimant testified that the income used by the Department was correct, and although Claimant testified that the housing expense used by the Department was slightly more than the amount of rent she currently pays, Claimant did not show that she notified the Department in writing of a change of rent. Therefore, in reviewing the budget submitted by the Department, it is concluded that the Department determined a correct allotment amount based on the knowledge the Department had at the time of the calculation.

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 calculated Claimant's FAP allotment.

DECISION AND ORDER

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



Susan C. Burke
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/11/2015**

Date Mailed: **3/11/2015**

SCB / hw

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 48909-813

cc:

