

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001328
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 02, 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, a telephone hearing was held on March 2, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's advocate, [REDACTED]. 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. The Department did not have written proof that Claimant paid for heat in addition to her rent when the Department calculated Claimant's FAP allotment.
2. The Department did not include the Heat and Utility Standard deduction in determining Claimant's FAP allotment.
3. Claimant requested a hearing on [REDACTED], protesting the amount of Claimant's FAP 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.

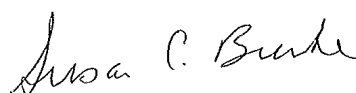
RFT 255 (10/2014) allows for a non-heat electric standard and a heat and utility standard. BEM 554 (10/2014), p. 16, instructs that for a FAP group which has a heating expense or contributes to the heating expense separate from rent, the Department must use the heat and utility standard when calculating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

In the present case, the Department did not have written documentation that Claimant paid for a heating expense separate from rent. Therefore, the Department was correct in not including the heat and utility standard in Claimant's FAP budget in determining Claimant's FAP allotment. It is also noted that Claimant's advocate did not dispute the amount of rent and income used by the Department in its calculation of Claimant's FAP allotment. Claimant's advocate indicated that she may be able to provide written proof to the Department of a heating expense or contributions to the heating expense separate from rent. Claimant's advocate testified that she thought she had already submitted the written proof, but she could not recall a date of the submission. Since no written proof of the date of submission was provided by Claimant regarding the heat expense, it is concluded that the Department acted within Department policy with the knowledge it had at the time it calculated Claimant's FAP allotment.

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: **3/6/2015**

Date Mailed: **3/6/2015**

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 48909-8139

cc:

