

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-002657  
Issue No.: FAP  
Case No.: [REDACTED]  
Hearing Date: March 24, 2015  
County: BERRIEN (DISTRICT 22)

**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 March 24, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly determine the amount of 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. On August 29, 2014, Claimant applied for FAP.
2. Verifications were requested on August 29, 2014 and September 9, 2014.
3. Claimant did not provide the verifications by the due date.
4. On September 23, 2014, a Notice of Case Action was issued to Claimant stating FAP was denied based on a failure to comply with verification requirements.
5. On September 30, 2014, Claimant provided requested verifications.
6. The Department determined Claimant's eligibility for FAP as of September 30, 2014, the date she complied with the verification requirements.
7. On October 23, 2014, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED].

8. On February 18, 2015, Claimant filed a hearing request contesting the amount of her FAP benefits since October 2014.

### **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.

Pursuant to the subsequent processing policy, when a client complies with a verification request after the due date has passed, but within 60 days of the application date, the application is re-processed but eligibility is determined as of the date the client complied with the verification request. BAM 130, 10-1-2014, pp. 6-7, and BAM 115, 7-1-2014, p. 23.

Clients must cooperate with the local office in determining initial and ongoing eligibility. Clients must completely and truthfully answer all questions on forms and in interviews. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, 10-1-2014, pp. 7 and 10.

The Department evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates: circumstance start/change date, reported on, verification received on, date client became aware. BAM 220, 10-1-2014, p. 8.

For FAP, the Department is to act on a change reported by means other than a tape match within 10 days after becoming aware of the change. BAM 220, p. 6.

**Benefit Increases:** Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is not returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned. BAM 220, p. 6.

**Benefit Decreases:** If the reported change will decrease the benefits or make the household ineligible, action must be taken and a notice issued to the client within 10 days of the reported change. BAM 220, p. 7.

BEM 550, 554, and 556 address the FAP budget. The Department budgets the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550 (2-1-2014), p.1. Child support payments are counted as unearned income. BEM 503, 7-1-2014, p. 6. 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.

The Department explained that pursuant to the subsequent processing policy, Claimant's eligibility for FAP was determined as of the date she complied with the verification requirements, September 30, 2014.

Claimant did not contest when the FAP benefits started. Rather, Claimant contested the amount of the FAP monthly allotment since October 2014. Claimant asserted that the FAP budget was not correct, including errors with the amount of her income and the lack of shelter expense.

Regarding income, the Department provided sufficient evidence that income was properly budgeted as information was provided. For example, Claimant submitted paycheck stubs on September 30, 2014. The Department properly utilized the gross income from these recent paycheck stubs in the initial FAP budget. Further, the Department explained that when there was a change with income to unemployment benefits, Claimant's FAP budget was re-calculated. The Department testified that this income change did not change the amount of FAP Claimant is eligible to receive.

Additionally, Claimant's testimony cannot be found fully credible. For example, Claimant's testimony regarding when she reported and verified that she has a shelter expense was contradicted by the documentary evidence in Department Exhibits 1-5 as well as by the Department's credible testimony regarding additional documents in the case record that were not part of the hearing exhibits.

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 amount of Claimant's FAP monthly allotment.

**DECISION AND ORDER**

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



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Colleen Lack  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/30/2015**

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:

