

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

IN THE MATTER OF:



Reg. No.: 15-002735
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: March 31, 2015
County: CASS

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 31, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED] former land lady. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly determine the amount of Claimant's monthly 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 is an ongoing recipient of FAP.
2. On January 5, 2015, the Department processed a reported change with Claimant's address.
3. Claimant reported his new shelter expense and that rent includes utilities.
4. The FAP budget was re-calculated with the new shelter expense, but the heat and utility standard could no longer be included in the FAP budget due to a policy change.
5. On January 6, 2015, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective February 1, 2015.
6. On February 16, 2015, Claimant verbally requested a hearing contesting the Department's action.

7. On March 3, 2015, Claimant submitted a written hearing request contesting the Department's action.

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. 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. 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.

On January 5, 2015, the Department processed a reported change with Claimant's address. Claimant reported his new shelter expense and that the rent includes utilities. The FAP budget was re-calculated with the new shelter expense. However, the h/u standard could no longer be included pursuant to the above cited BEM 554 policy. The Department determined that Claimant's FAP monthly allotment would decrease to \$ [REDACTED]

Claimant testified that he is contesting the policy change. Claimant noted that previously his rent included utilities. The only change was his address and a \$17 increase in rent. However, the FAP monthly allotment decreased by \$ [REDACTED]. Claimant explained that the policy change caused an excessive and unfair reduction in his FAP benefits. Claimant also noted that the price of groceries has been increasing.

As explained during the March 31, 2015, hearing proceedings, this ALJ has no authority to change or make exceptions to the Department's policy. The Department properly re-

determined Claimant's ongoing eligibility for FAP when the change in address and shelter expense was reported. The BEM 554 policy now only allows for the utilities for which a client is responsible to pay to be included in the FAP budget. Claimant reported his rent includes utilities. Therefore, no utility expenses could be included in the FAP budget.

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 monthly FAP 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: **4/9/2015**

Date Mailed: **4/9/2015**

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:

