

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002835
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 31, 2015
County: OAKLAND-DISTRICT 3 (SOUTH)

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on March 31, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED].

ISSUE

Did the Department properly determine the Claimant's monthly allotment of Food Assistance Program (FAP) benefits?

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 Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant receives monthly unearned income in the gross monthly amount of [REDACTED].
3. The Claimant has monthly housing costs of [REDACTED] that include heat and utility expenses.
4. On February 6, 2015, the Department notified the Claimant that the monthly allotment of Food Assistance Program (FAP) benefits would be reduced to [REDACTED] effective March 1, 2015.
5. On February 19, 2015, the Department received the Claimant's request for a hearing protesting the amount of his Food Assistance Program (FAP) benefits.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

For all Food Assistance Program (FAP) groups that received the heat and utility standard on or before February 7, 2014, the heat and utility standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the heat and utility standard beyond the expiration of the five month period, the Food Assistance Program (FAP) group must meet the requirements of the mandatory heat and utility standard section. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 15.

The Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of one. The Claimant receives monthly unearned income in the gross monthly amount of [REDACTED], an amount not disputed by the Claimant during the hearing. The Claimant's adjusted gross income of [REDACTED] was determined by reducing his total income by the [REDACTED] standard deduction. The Claimant's excess shelter deduction of [REDACTED] was determined by adding his monthly [REDACTED] housing expenses to the [REDACTED] standard telephone deduction, then subtracting 50% of his adjusted gross income. Since the Claimant is not obligated to pay for heat separate from his monthly housing expenses, he is not entitled to the standard heat and utility credit.

The Claimant's net income of [REDACTED] was determined by subtracting the excess shelter deduction from his adjusted gross income. A group of one with a net income of [REDACTED] is entitled to a [REDACTED] monthly allotment of FAP benefits.

The Claimant lives with family members but does not purchase and prepare food with them. His family charges him [REDACTED] rent and this includes heat and utility expenses. The Claimant failed to establish that he is entitled to the heat and utility deduction.

The Claimant argued that he has expenses such as clothing costs that the Department did not consider when determining his net income.

Not all expenses are considered by the Department when determining eligibility for FAP benefits. The Department has established that it applied all of the Claimant's expenses allowed by Department policy and the Claimant failed to identify any expenses allowed by policy that the Department failed to apply to his case.

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 Claimant's monthly allotment of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **4/6/2015**

Date Mailed: **4/6/2015**

KS/sw

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:

