

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-007565
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 15, 2015
County: Wayne-District 31

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a 3-way telephone hearing was held on June 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant from the Department's Grandmont office. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator from the Grandmont office, and ██████████, Eligibility Specialist from the Department's Greystone office.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for May 2015?

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 was an ongoing recipient of FAP benefits.
2. On May 11, 2015, Claimant filed a request for hearing concerning her FAP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference

Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

As a preliminary matter, it is noted that Claimant clarified at the hearing that her sole issue presented for hearing was her FAP benefits. The hearing proceeded to address Claimant's FAP case.

The Department contended that, although Claimant's FAP case had been due to close, her redetermination was received and processed and Claimant received ongoing, uninterrupted FAP benefits. While the eligibility summary presented by the Department supports its testimony that Claimant received ongoing, uninterrupted FAP benefits, it also showed that her monthly FAP benefits had decreased from \$628 to \$488 in May 2015 and then increased to \$620 in June 2015 (Exhibit A). Claimant explained that she was concerned about this decrease in FAP benefits for May 2015.

██████████ of the Department's Grandmont office explained that, in reviewing Claimant's FAP case prior to the hearing, it appeared that the \$553 mandatory heat and utility (h/u) standard had been excluded from Claimant's May 2015 budget and then reintroduced into the June 2015 ongoing budget. In the calculation of monthly FAP benefits, a client may be eligible for an excess shelter deduction, the amount of which is based on the client's monthly housing expenses and the utility standard applicable to the client's case. BEM 556 (July 2013), pp. 4-5. A client is eligible for the \$553 mandatory h/u standard, the most advantageous utility standard available, if the client is responsible for heating and/or cooling expenses in connection with shelter expenses. BEM 554 (October 2014), pp. 14-20; RFT 255 (October 2014), p. 1. In this case, Claimant testified that she was responsible for her gas and electric bill. As such, she would be eligible for the mandatory h/u standard. The Department did not present any evidence to explain why the mandatory h/u standard was included in the June 2015 budgets but not in May 2015.

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 did not in accordance with Department policy when it calculated Claimant's May 2015 FAP benefits.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP benefits for May 2015;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for May 2015; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/23/2015**

Date Mailed: **6/23/2015**

ACE / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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;

