

**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.: 15-008332
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 29, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held on June 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance (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 was an ongoing recipient of FAP benefits. On May 7, 2015 the Department issued a Notice of Case Action reducing the Claimant's FAP benefits to \$27 a month effective June 1, 2015. Exhibit 2.
2. The Claimant receives SSI in the amount of \$733 and receives a state quarterly supplement amount of \$14 for total unearned income of \$747. The Claimant pays rent of \$300 per month which does include heat and electricity. The Claimant does not pay for either heat or electricity separately. The Claimant does pay for a telephone and receives a \$34 telephone expense in shelter expense. Exhibit 1.
3. The Claimant requested a hearing on May 18, 2015 protesting the reduction of his Food Assistance.

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.

In this case, The Department reduced the Claimant's Food Assistance benefits when due to a change in Department policy it could no longer include a shelter expense of \$553 for heat in utility expense because the Claimant did not pay for either heat or electricity, it being included in his rent.

Additionally, in this case, the Department and the Claimant agreed that the total unearned income received by the Claimant was \$747 per month. The Department's budgets included rent expense of \$300 per month and the Claimant conceded that he did not pay any heat or utility expenses other than telephone. The Department properly included a \$34 telephone expense in the May 2015 Food Assistance budget. As explained at the hearing, a change in Department policy no longer allowed the Department to include a heat in utility standard expense of \$553 which it has had previously included when the Claimant's benefits were \$183 per month. After the policy change **unless a food assistance recipient actually paid for heat in utility expenses they were no longer entitled to the \$553 allowance**. Once the allowance was no longer included in the Claimant's Food Assistance calculation, it caused a reduction in the benefits. After review at the hearing of the budget provided by the Department as evidence at the hearing, it is determined that the budget as submitted was correct and that the Claimant's Food Assistance was properly reduced.

Effective May 1, 2014. The Department was required when processing applications, redeterminations or when a change was reported clients were not automatically any longer allowed the heat in utility standard in the amount of \$553. These changes in Department policy **applied to all food assistance recipients equally**. Thereafter, the Department began to gradually implement this change which in this case resulted in the Claimant seeing a decrease in his FAP. Changes in the Department policy caused in some cases a reduction in Food Assistance benefits after the removal of the automatic heat in utility standards previously applied to their Food Assistance budgets as is the case in this hearing.

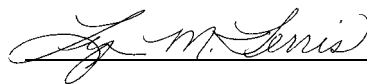
Changes to BEM 554 effective October 1, 2014 removed the automatic mandatory heat in utility standard. For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT IN UTILITY STANDARD section. BEM 554 p. 15

FAP groups not eligible for the mandatory h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19. These include the non-heat electric standard (\$124 as of October 1, 2014) if the client has no heating/cooling expense but has a responsibility to pay for non-heat electricity; the water and/or sewer standard (currently \$77) if the client has no heating/cooling expense but has a responsibility to pay for water and/or sewer separate from rent/mortgage; the telephone standard (currently \$34) if the client has no heating/cooling expense but has a responsibility to pay for traditional land-line service, cell phone service, or voice-over-Internet protocol; the cooking fuel standard (currently \$47) if the client has no heating/cooling expense but has a responsibility to pay for cooking fuel separate from rent/mortgage; and the trash removal standard (currently \$21) if the client has no heating/cooling expense but has a responsibility to pay for trash removal separate from rent/mortgage. BEM 554, pp. 20-24; RFT 255, p. 1.

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 found in BEM 554 when it reduced the Claimant's Food Assistance as the Claimant was no longer entitled to a heat in utility expense.

DECISION AND ORDER

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



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/7/2015**

Date Mailed: **7/7/2015**
LMF / cl

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;
- 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]