

**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.: 15-009141  
Issue No.: 3008  
Case No.: ██████████  
Hearing Date: July 09, 2015  
County: Wayne-District 19

**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 telephone hearing was held on July 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

**ISSUE**

Did the Department properly calculate Claimant's 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. Claimant is an ongoing recipient of FAP benefits.
2. Claimant is the sole member of her FAP group.
3. Claimant receives \$727 in monthly Retirement, Survivors, and Disability Income (RSDI) benefits.
4. On an unknown date, the Department sent Claimant a Notice of Case Action notifying her that her monthly FAP benefits were decreasing to \$32 effective July 1, 2015.
5. On June 15, 2015, Claimant filed a request for hearing disputing the Department's actions.

## 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.

Claimant disputed the reduction of her monthly FAP benefits to \$32 effective July 1, 2015.

The Department explained that the only change made to Claimant's FAP budget for July 2015 ongoing compared to her previous FAP budget was a decrease in the excess shelter deduction that applied to Claimant's case (Exhibits A and B). At the hearing, Claimant verified the income and group size the Department testified it used in calculating her FAP budget. Claimant's testimony established that the only deduction she was eligible to receive was the standard deduction of \$154, which the Department testified was applied to Claimant's FAP budget, and the excess shelter deduction. See BEM 554 (October 2014), p. 1; RFT 255, p. 1.

The excess shelter deduction is based on (i) monthly shelter expenses and (ii) the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. The Department's initial position was that, as a result of a change in Department policy, Claimant was no longer eligible for the \$553 mandatory heat and utility (h/u) standard, which is the most advantageous utility standard available to a client. See RFT 255 (October 2014), p. 1. A client is eligible for the \$553 mandatory h/u standard if (i) the client is responsible for, or contributes towards heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a home heating credit (HHC) in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month; (iv) the client received a low income home energy assistance payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 16-20.

At the hearing, the Department acknowledged that, because Claimant was responsible for cooling expenses, it erred when it did not apply the \$553 mandatory h/u standard in

calculating Claimant's excess shelter deduction. FAP groups who pay for cooling (including room air conditioners) are eligible for the \$553 h/u standard if they verify they have the responsibility to pay for non-heat electric. BEM 554, p. 17. In this case, Claimant had verified that she was responsible for non-heat electricity expenses, and she testified that this responsibility included cooling expenses. Therefore, the Department did not act in accordance with Department policy when it failed to apply the \$553 mandatory h/u standard in calculating Claimant's excess shelter deduction.

Claimant also pointed out that the Department had applied the incorrect monthly shelter expenses in calculating her excess shelter deduction. The Department acknowledged that on January 28, 2015, it received verification from Claimant that her monthly housing expenses had increased to \$176 but this change was never processed. This change should have affected March 2015 FAP benefits, and Claimant is entitled to a supplement for any resulting underissuances due to the Department's use of the incorrect shelter expense in calculating Claimant's excess shelter deduction. BAM 406 (July 2013), p. 3; BAM 220 (July 2015), p. 7.

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 act in accordance with Department policy when it calculated Claimant's FAP benefits from March 2015 ongoing.

### **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 budget for March 1, 2015, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 1, 2015, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **7/17/2015**

Date Mailed: **7/17/2015**

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;
- 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]  
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