

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009858
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 28, 2015
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 28, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant's Guardian and mother, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included ES [REDACTED] and Family Independence Manager (FIM) [REDACTED].

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility on April 7, 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 Food Assistance Program benefits.
2. In October 2014, Claimant submitted a Mid-Certification Contact Notice (DHS-2240-A) and a Shelter Verification (DHS-3688). The Shelter Verification showed that no utilities were included in Claimant's rent.
3. On November 5, 2014, Claimant was sent a Verification Checklist (DHS-3503) requesting verification of receipt of a home heating credit or Michigan Energy Assistance Program payments.

4. On April 7, 2015, the Department sent Claimant a Notice of Case Action (DHS-1605) which stated she was eligible for \$107 of Food Assistance Program benefits per month beginning May 1, 2015.
5. On May 22, 2015, a Shelter Verification (DHS-3688) was submitted by Claimant.
6. On June 15, 2015, this hearing request was submitted.

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.

Bridges Eligibility Manual (BEM) 554 FAP Allowable Expenses and Expense Budgeting (10-1-2014) at pages 14-16, states:

MANDATORY HEAT AND UTILITY STANDARD

The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc.; see Actual Utilities in this item. Do **not** prorate the h/u standard even if the heating/cooling expense is shared.

FAP groups that qualify for the h/u standard **do not** receive any other individual utility standards. Do **not** require verification of the other utility standards if the household is already eligible for the h/u standard.

Effective May 1, 2014

Applications

When processing applications, redeterminations, or when a change is reported clients are **not** automatically allowed the h/u standard. Process these using the policy as written in the MANDATORY HEAT AND UTILITY STANDARD section.

All new FAP applications that were not certified before March 10, 2014, when the Agricultural Act of 2014 went into effect, will be reprocessed to follow the MANDATORY HEAT AND UTILITY STANDARD section and will be required to provide verification once the systems changes are completed on May 1, 2014.

Delayed Implementation of Changes Due to Agricultural Act of 2014 (End of the Dollar LIHEAP Program)

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 AND UTILITY STANDARD section.

Example: Sally's FAP group received the h/u standard on or before February 7, 2014. Her case either has its first redetermination or first reported case change after May 1, 2014 in the month of May, with the benefit period beginning in June. The delayed implementation change requires her benefit issuance amount starting in November to include only the utilities for which she is responsible to pay. Therefore, from June through October, she will continue to automatically receive the h/u standard. However, if she does not verify any responsibility for utilities, then starting with her November FAP issuance her budget will no longer contain any heat or utility expenses.

Heating Separate from Housing Costs

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.

Heat Verification

Verify heating separate from housing costs at application, redetermination, or when a change is reported.

Heat Verification Sources

Acceptable verification sources include, but are not limited to:

Current bills or a written statement from the provider for heating/cooling expenses.

Collateral contact with the landlord or the heating/cooling provider.

Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

DHS-3688, Shelter Verification.

Current lease.

In this case, the Department has not provided a copy of the April 7, 2015, Notice of Case Action (DHS-1605). The Hearing Summary states that no verification was returned in response to the November 5, 2014 Verification Checklist (DHS-3503) and the FAP change budget was completed removing the heat and utility standard and reducing FAP benefits effective May 2015.

The Hearing Summary also states that a Shelter Verification (DHS-3688) was submitted on May 22, 2015 which indicated Claimant now pays rent plus utilities so her FAP benefits increased beginning for July 2015. Comparison of the May 22, 2015 Shelter Verification (DHS-3688) with the one signed October 10, 2014, shows they are marked exactly the same. The verifications requested by the November 5, 2014 Verification Checklist (DHS-3503) are not consistent with the information provided to the Department. The Department's failure to utilize the information provided by Claimant is not a valid reason to reduce Claimant's benefits.

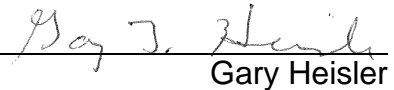
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's Food Assistance Program eligibility on April 7, 2015.

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. Re-determine Claimant's Food Assistance Program eligibility for the period May 1, 2015 to July 1, 2015, in accordance with Department policy and the information submitted by Claimant.
2. Supplement any Food Assistance Program benefits Claimant was otherwise eligible for but did not receive.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/7/2015**

Date Mailed: **8/7/2015**

GFH / 

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:

