

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

IN THE MATTER OF:



Reg. No.: 15-013711
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 01, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

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 September 01, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

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. On December 6, 2014, the Department notified the Claimant that her monthly allotment of Food Assistance Program (FAP) benefits would be reduced to \$[REDACTED].
3. The Claimant receives monthly unearned income in the gross monthly amount of \$[REDACTED].
4. On July 27, 2015, the Department received the Claimant's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is receiving.

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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

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 FAP recipient and she is protesting the amount of FAP benefits that she had been receiving since 2013. The Claimant testified that she has requested hearings on this issue in the past, but her local Department office has denied her an opportunity to have a hearing on her FAP eligibility.

Whether the Department prevented the Claimant from attending a scheduled hearing in the past is not relevant to this hearing. If the Claimant has requested a hearing and is turned away from the Department's office, she should call the Michigan Administrative Hearing System at 1-800-648-3397 to confirm whether she is scheduled for a hearing.

The Claimant has a right to a hearing to protest a negative action taken by the Department against her benefits within 90 days of the Department sending notice of its action. The Claimant also has the right to protest her current level of FAP benefits, and the issue to be considered in this hearing is whether the Department properly determined her current level of benefits.

The Claimant is an ongoing FAP recipient as a group of one. She received unearned income in the gross monthly amount of \$■■■■, which was not disputed during the hearing. The Claimant's adjusted gross income of \$■■■■ was determined by subtracting the standard \$■■■■ deduction from her total monthly income. The Claimant failed to establish any childcare or allowable medical expenses verified to the Department.

The Claimant is not entitled to a deduction from her income for shelter expenses because the sum of her monthly housing expenses and the standard telephone deduction is less than 50% of her adjusted gross income.

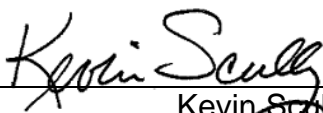
Previously all FAP recipients received a standard heat and utility deduction towards her excess shelter deduction. After the Department changed its policy with respect to the heat and utility standard deduction, FAP recipients must provide verification that they have an obligation to pay for heat and cooling expenses separate from their shelter expenses, or may provide verification of a non-eat electricity obligation. In this case, the Claimant failed to establish that she has these expenses, or if she does, that she provided the Department with verification of these expenses since May of 2014.

With insufficient verified shelter expenses to allow her a deduction from her income, the Claimant's net income is the same as her adjusted gross income. A group of one with a net income of \$■■■■ is entitled to a \$■■■■ monthly allotment of FAP 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 acted in accordance with Department policy when it determined the Claimant's current eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/2/2015**

Date Mailed: **9/2/2015**

KS/■

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:

