

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017274
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: KENT-DISTRICT 1
(FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Petitioner'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, an in-person hearing was held on [REDACTED], from Grand Rapids, Michigan. The Claimant was represented by [REDACTED], son and Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payments Manager (APM).

ISSUE

Did the Department properly determine the amount of Claimant's Food Assistance Program (FAP) monthly allotment?

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 FAP recipient.
2. On September 12, 2015, a Notice of Case Action was issued to Claimant stating the FAP benefits would decrease to \$ [REDACTED] per month effective October 1, 2015, for a group size of one based on the household income and expenses. (Department Exhibit A, pp. 2-5)
3. On September 18, 2015, Claimant filed a hearing request contesting the Department's determination.

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (October 1, 2015), pp. 1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2015), p. 12. Heat and utility expenses can also be included as allowed by policy. The Department allows only the utilities for which a client is responsible to pay. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. However, FAP groups who have received a home heating credit (HHC) in an amount greater than \$█ in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. FAP groups who have received a Low Income Home Energy Assistance Payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$█ in the application month or in the immediately preceding 12 months prior to the application month are eligible for the h/u standard. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. The Department is to use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23. Verified allowable medical expenses are also considered in the FAP budget. BEM 554, p. 8-12.

The Department counts the gross benefit amount of current Social Security Administration (SSA) issued Retirement Survivors and Disability (RSDI) and Supplemental Security Income (SSI) as unearned income. BEM 503, (July 1, 2015), pp. 28 and 32.

State SSI Payments (SSP) are issued quarterly. The Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33.

As of October 1, 2015, the FAP standard deduction for a group size of 1-3 persons is \$[REDACTED]. The applicable shelter deduction and utility standards as of October 1, 2015, include: non-heat electric \$[REDACTED]; and telephone \$[REDACTED]. RFT 255, (October 1, 2015), p. 1.

In this case, the Department explained that changes in the standards utilized for heat and utilities for fiscal year 2015-2016 caused the decrease with Claimant's FAP monthly allotment. As noted above, RFT 255 was updated to list the applicable standards effective October 1, 2015.

The income and expense figures utilized in the FAP budget were reviewed with the parties during the hearing proceedings. The Department provided sufficient evidence that these figures were correct. For example, an SOLQ report verified the current SSI and RSDI benefit income. (Department Exhibit A, pp. 12-14) The APM also explained that there is an additional \$[REDACTED] income from the corresponding monthly SSP benefit. (See also Department Exhibit A, p. 19) A Shelter Verification form received by the Department on May 22, 2015, documented that Claimant's monthly rent of \$[REDACTED] included heating/cooling, water/sewer, and trash removal. (Department Exhibit A, pp. 10-11) Accordingly, Claimant's rent and the individual standards for only the utilities Claimant has responsibility to pay were included in the FAP budget.

Claimant's AHR noted that Claimant has medical expenses but none were included in the FAP budget. (See Department Exhibit A pp. 2 and 15). Claimant's AHR testified that Claimant told him she let the Department know that she had medical expenses. However, the APM credibly testified that the case record does not show Claimant reported having any medical expenses to the Department. During the hearing proceedings, the case record was reviewed on the computer in the hearing room, including: the case comments from a January 9, 2014 interview; the January 2014 Redetermination form signed by Claimant, and the December 2014, Mid-Certification Contact Notice form signed by Claimant. Claimant had not reported medical expenses on either of these forms. Similarly, the interview note did not indicate that Claimant reported having any medical expenses. Overall, there was insufficient evidence to establish that Claimant previously reported to the Department that she had medical expenses to verify and include in the FAP budget.

Overall, the evidence establishes that the Department utilized the available income and expense information at the time of this case action, as well as the updated standards for heat and utilities for fiscal year 2015-2016, when it calculated Claimant's FAP budget. As discussed during the hearing proceedings, Claimant may wish to report and verify any changes that need to be made, such as any increase in the monthly rent expense or allowable medical expenses, so that the Department can update the FAP budget for the ongoing FAP monthly allotment.

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 determine the amount of Claimant's FAP monthly allotment.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/23/2015**

Date Mailed: **11/23/2015**

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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:

