

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-002969  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: April 02, 2015  
County: WAYNE-DISTRICT 19

**ADMINISTRATIVE LAW JUDGE: Susan C. Burke**

**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, an in-person hearing was held on April 2, 2015, in Inkster, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) 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. On [REDACTED], the Department notified Claimant that she would receive \$16.00 in FAP benefits for a household size of two, effective [REDACTED].
2. Claimant's daughter was in college and did not work twenty hours per week.
3. Claimant notified the Department after its calculation of Claimant's allotment that she was no longer receiving child support.
4. Claimant's heat expense was included in her rent.
5. Claimant paid for air conditioning in addition to her rent.

6. Claimant requested a hearing on [REDACTED], protesting the amount of the FAP allotment.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

BEM 212 (7/2014), p. 9 instructs that a person who is in student status and does not meet the criteria of BEM 245 is not a group member. BEM 245 (7/2014), pp. 3, 4 instructs that a person enrolled in post-secondary education and is the age eighteen through forty-nine must be employed for at least twenty hours and be paid for that employment, or meet other exceptions. In this case, Claimant acknowledged that one of her children, who was eighteen or older, was a college student but did not work at least twenty hours. Therefore, the Department was correct to not include this child of Claimant's in Claimant's FAP group. Claimant acknowledged that the remaining household was two, so the Department was correct in determining that Claimant's FAP group size was two.

BEM 550 (2/2014) instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. In the present case, the Department was correct in including child support calculations based on prior payments, as Claimant did not notify the Department until after the FAP allotment was calculated that she was no longer receiving child support.

Monthly net income for FAP purposes is determined by subtracting allowable expenses, such as a shelter deduction, if any. BEM 554 (10/2014).

RFT 255 (10/2014) allows for a non-heat electric standard and a heat and utility standard. BEM 554 (10/2014), p. 16, instructs that the Department must use the heat and utility standard for a FAP group who has a cooling expense separate from rent. In the present case, Claimant testified, without contradiction from the Department, that she had an air conditioning expense separate from rent. The Department did not use the heat and utility standard in calculating Claimant's FAP allotment and did not substantiate why it did not use the heat and utility standard.

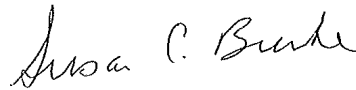
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP allotment.

**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-calculate Claimant's FAP allotment, verifying all deductions, including cooling expense, effective [REDACTED] and ongoing.
2. Notify Claimant in writing of the new FAP allotment.
3. Issue FAP supplements in accordance with Department policy.



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**Susan C. Burke**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **4/8/2015**

Date Mailed: **4/8/2015**

SCB / hw

**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:

