

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-006089  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: May 28, 2015  
County: Oakland (2) Madison Hts

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

**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 three-way telephone hearing was held on May 28, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and his sister/Authorized Hearing Representative (AHR), [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Assistance Payments Worker [REDACTED]. Law student extern [REDACTED] observed with the consent of the parties.

**ISSUE**

Did the Department properly reduce 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 was an on-going FAP recipient.
2. On November 15, 2014, the Department mailed to Claimant a Notice of Case Action (NCA) informing him that his FAP would be reduced because he was not paying for heat at his apartment, and the heat and utility standard policy no longer allowed him the credit associated with the h/u standard.
3. Claimant submitted a hearing request on January 22, 2015, and another hearing request on April 14, 2015.

## 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.

Effective October 1, 2013, the Department adjusted the heat and utility standard that is used in calculating the FAP budget. In September 2013, the heat and utility standard was \$ [REDACTED]. Beginning in October 2013, that was reduced to \$ [REDACTED]. Effective November 1, 2013, the federal government ceased providing funds that had been available through the American Recovery and Restoration Act (commonly known as "Stimulus" funding). Effective May 1, 2014, the adjustment was no longer available unless the Claimant verified he had utility expenses. Some recipients were granted a six-month extension before the change was effective. Claimant did not experience the reduction in his benefits until December 1, 2014.

In the instant case, the evidence and testimony provided confirm that Claimant is disputing a change in his FAP allotment that resulted from mass changes in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). Rule 903(3) of the Administrative Procedures Act of 1969 states: "A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation." However, Claimant provided evidence that he has air conditioning at his apartment, and that he pays for the electricity that runs the air conditioner.

As stated in BEM 554 (10/1/14) at page 16,

### **Cooling Separate from Housing Costs**

FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if they verify they have the responsibility to pay for non-heat electric.

Consequently, Claimant should have been allowed the h/u standard because he has verified that he is responsible for paying non-heat electric, including his air conditioner. Although the impact was caused by a mass update, Claimant has demonstrated an incorrect grant computation because he was not allowed the h/u standard despite the fact that he pays for air conditioning.

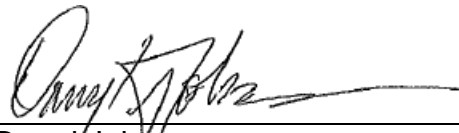
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it reduced Claimant's FAP.

### **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. Redetermine Claimant's FAP benefit eligibility, effective December 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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Darryl Johnson  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/29/2015**

Date Mailed: **5/29/2015**

DJ/jaf

**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:

