

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-006718  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: June 10, 2015  
County: Jackson

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 June 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], General Services Program Manager, and [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly determine the amount of Claimant's FAP benefits since the case was reinstated?

**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 a recipient of FAP benefits.
2. On [REDACTED], the Department received a Facility Admission Notice, in part stating Claimant had been admitted to a nursing facility; and it was likely the admission would be 30 days or longer.
3. On February 4, 2015, a Notice of Case Action was issued to Claimant stating his FAP benefits would close effective March 1, 2015, based on institutional status.

4. On March 16, 2015, the Department confirmed with the nursing facility the Claimant was discharged on [REDACTED].
5. On March 16, 2015, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED] effective March 1, 2015.
6. On April 29, 2015, Claimant filed a request for hearing 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.

#### FAP closure

BEM 265 (October 1, 2014) address eligibility for several Department programs, including FAP, when a person is a resident of an institution. Generally, residents of institutions can qualify for certain program benefits in limited circumstances. Institution means an establishment furnishing food, shelter and some treatment or services to more than three people unrelated to the proprietor. BEM 265, p. 1.

A person in a facility which provides its residents a majority of their meals can qualify for FAP if the facility: is authorized by the Food and Nutrition Service (FNS) to accept Food Assistance; or is an eligible group living facility as defined in BEM 615. The resident must also meet the criteria in the ELIGIBLE PERSONS section in BEM 617. BEM 265, p. 2.

In this case, the Department closed Claimant's FAP benefits based on the [REDACTED], [REDACTED] Facility Admission Notice, in part stating Claimant had been admitted to a nursing facility; and it was likely the admission would be 30 days or longer.

There was no evidence that the nursing facility and Claimant met the criteria to allow for Claimant to qualify for FAP while a resident of the nursing facility.

Claimant contests the closure of his FAP benefits. Claimant's hearing summary states he was discharged from the nursing facility on [REDACTED]. Claimant testified he was discharged on [REDACTED]. Claimant asserted that on the date he was discharged, a staff member from the nursing facility sent a computer message to the Eligibility Specialist letting the Department know that Claimant was being discharged home. This ALJ understands that Claimant was told this message was sent. However, there is insufficient evidence to establish that the alleged email was actually successfully sent to the Eligibility Specialist. The nursing facility staff member who allegedly sent the email was not present to provide testimony, and there was no documentary evidence regarding this alleged email.

The Eligibility Specialist explained that when Claimant contacted her in March 2015 and told her about the computer message, she checked her emails. The Eligibility Specialist credibly testified that she did not find the alleged message from the nursing facility staff member. Accordingly, the Department was not aware that Claimant had been discharged from the nursing facility prior to Claimant contacting the Department in March 2015.

Based on the information the Department had at the time the [REDACTED], Notice of Case Action was issued, the Department properly closed Claimant's FAP benefits based on Claimant's status as a resident of an institution. Further, the Department was not aware that Claimant had been discharged from the nursing facility prior to the March 1, 2015, effective date of the FAP closure. Accordingly, the Department's determination to close Claimant's FAP benefits March 1, 2015, is upheld.

#### Amount of FAP monthly allotment when case was reinstated

On March 16, 2015, the Department confirmed with the nursing facility the Claimant was discharged on [REDACTED]. Claimant's eligibility for FAP was re-determined. On March 16, 2015, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$ [REDACTED] effective March 1, 2015. Claimant contested the reduction of his FAP monthly allotment when the case was reinstated.

BEM 550, 554, and 556 address the FAP budget. The Department budgets the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550 (February 1, 2014), p.1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (October 1, 2014) p. 12. Heat and utility expenses can also be included as allowed by policy. 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. FAP groups that qualify for the full h/u standard do not receive any other individual utility standards. BEM 554, pp. 14-20. Allowable, verified, medical expenses are also considered. BEM 554, pp. 8-12.

The FAP budget shows that the Department utilized Claimant's current income from Social Security benefit, Supplemental Security Income (SSI), and the State SSI Payments (SSP). Claimant's testimony acknowledged that the income amounts were correct. Claimant contests the Department utilizing the increase in his SSI to benefit decrease his FAP benefit. However, this ALJ must review the Department's determination under the applicable Department policies and has no authority to change or make exception to Department policy. The Department's policy clearly states how SSI and SSP payments are considered for FAP. The Department counts the gross amount of current SSA-issued SSI benefit as well as the corresponding monthly SSP benefit amount as unearned income. BEM 503 (July 1, 2014), pp. 32-33.

The remainder of the FAP budget was reviewed with Claimant and the Department. The Department properly budgeted the full h/u standard as Claimant has a hearing expense. Further, the Department properly budgeted housing costs and medical expenses based on the verified information that has been submitted to the Department. Accordingly, the Department's determination regarding the amount of Claimant's FAP benefits when the case was reinstated is also upheld.

Claimant may wish to provide the Department with any updated verification of allowable medical expenses and/or housing costs (such as tax or insurance costs as his home is paid off) for determining his ongoing FAP eligibility.

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 closed Claimant's FAP benefits based on the information available at that time and when it determine the amount of Claimant's FAP benefits since the case was reinstated.

#### **DECISION AND ORDER**

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



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

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

CL / 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:

