

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-007329
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 17, 2015
County: Chippewa

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 June 17, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED] and [REDACTED] as hearing facilitators.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's level of 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant receives monthly social security benefits in the gross monthly amount of \$ [REDACTED].
3. On October 22, 2014, the Claimant provided the Department with verification that she has a monthly housing expense of \$ [REDACTED] that includes heating/cooling, water/sewer, and trash removal.
4. The Claimant has a monthly obligation for electricity and telephone charges.
5. On December 6, 2014, the Department notified the Claimant that her monthly allotment of Food Assistance Program (FAP) benefits would decrease to \$ [REDACTED] effective January 1, 2015.

6. On March 18, 2015, the Department received the Claimant's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits.

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.

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 as a group of one. On October 22, 2015, the Department received written verification of the Claimant's monthly shelter expenses, which indicates that she is responsible for rent of \$ [REDACTED] that includes heating and cooling charges. The Claimant is responsible for electricity and telephone charges separate from her rent.

The Claimant receives a monthly benefit from social security in the gross monthly amount of \$ [REDACTED] which was not disputed during the hearing. An adjusted gross income of \$ [REDACTED] was determined by subtracting the \$ [REDACTED] standard deduction from her total monthly income. The Claimant is entitled to a \$ [REDACTED] excess shelter deduction, which was determined by adding her rent expense to the \$ [REDACTED] standard electricity deduction, and the \$ [REDACTED] standard telephone deduction, then subtracting 50% of her adjusted gross income.

The Claimant's net income of \$ [REDACTED] was determined by subtracting the excess shelter deduction from her adjusted gross income. A group of one with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of FAP benefits.

In the past, the Claimant would have received a \$█ heat and utility credit applied to her FAP budget regardless of her actual expenses. As of May 1, 2014, FAP recipients no longer receive this deduction unless they are responsible for heating expenses separate from their rent. The Department delayed the removal of this deduction from ongoing recipients until after November unless there was another change to be processed. This change in policy did not affect the Claimant's case until January 1, 2015.

The Claimant testified that her need for food assistance is greater due to the amount of medication she is required to take to maintain her health and this medication must be taken with food.

The Claimant's grievance centers on dissatisfaction with the Department's current policy and this Administrative Law Judge does not have the authority to grant increased benefits based on her special needs. Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 monthly allotment of benefits.

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: **6/18/2015**

Date Mailed: **6/18/2015**

KS/las

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:

