

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

IN THE MATTER OF:



MAHS Reg. No.: 15-007522
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: June 24, 2015
County: Ingham

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, an in-person hearing was held on June 24, 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], Hearing Facilitator.

ISSUE

Did the Department properly determine 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 recipient of FAP benefits.
2. On April 14, 2015, Claimant reported a change in her shelter expense.
3. The new shelter expense was verified.
4. On April 15, 2015, a Notice of Case Action was issued to Claimant stating the FAP was approved for a monthly allotment of \$ [REDACTED] for April 2015, and a monthly allotment of \$ [REDACTED] effective May 2015 through September 2015.
5. On April 30, 2015, Claimant requested a hearing contesting the amount of her 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.

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. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility (h/u) standard. The Department now includes only the utilities for which a client is responsible to pay. 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 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. 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. Use the individual standard for each utility the FAP group has responsibility to pay. FAP groups that qualify for the full h/u standard do not receive any other individual utility standards. BEM 554, pp. 14-20.

For non-income changes, the Department is to complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. Example: A \$30.00 shelter increase reported on May 15th would increase the household's June allotment. If the same increase were reported on May 28, the household's allotment would have to be increased by July. BAM 220, (September 1, 2015), p. 9.

In this case, Claimant testified she is disputing the amount of her FAP benefits for April 2015 as well as May 2015 and ongoing.

Claimant reported having a shelter expense on April 14, 2015. Part of Claimant's lease was submitted to the Department. A collateral contact was also made verifying that Respondent pays \$ [REDACTED] a month for rent and is responsible to pay electric and phone only.

Under the above cited BAM 220 policy, the change in shelter expense reported on April 14, 2015, would affect the May 2015 FAP allotment. Accordingly, the effective

date of the increase in Claimant's monthly FAP allotment was properly determined to be May 1, 2015, based on the date this change was reported to the Department.

The FAP budgets for April 2015 and for May 2015 and ongoing were reviewed with the parties.

No errors were identified with the May 2015 FAP budget when it was reviewed during the hearing proceedings.

Regarding the April 2015 FAP budget, the Department did not provide sufficient evidence to explain how the allowed excess shelter deduction of \$ [REDACTED] was determined. That specific portion of the FAP budget calculation was inadvertently omitted from the hearing packet. The testimony of the parties could not establish what shelter and/or utility expenses Claimant was responsible for that would have resulted in the \$ [REDACTED] excess shelter deduction included in the April 2015 FAP budget. Accordingly, the Department's determination must be reversed.

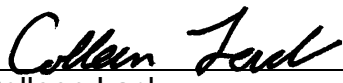
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's FAP monthly allotment.

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-determine Claimant's eligibility for FAP retroactive to April 1, 2015, in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



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

Date Mailed: **7/2/2015**

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:

