

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-007572
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 15, 2015
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for May 2015?

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 ongoing recipient of FAP benefits.
2. Following a redetermination, the Department removed Claimant's shelter expenses from the calculation of his FAP benefits, resulting in the monthly FAP benefits decreasing from \$157 to \$93 effective May 1, 2015.
3. In May 2015, Claimant received \$93 in monthly FAP benefits.
4. On May 7, 2015, Claimant submitted a copy of his rent receipt showing monthly rent of \$214 to the Department.
5. On May 11, 2015, Claimant filed a request for hearing disputing the Department's actions concerning his FAP case.

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.

Claimant filed a hearing request concerning his FAP benefits. The Department testified that because Claimant did not report any shelter expenses in his FAP redetermination, his FAP benefits decreased to \$93 monthly effective May 1, 2015,. The Department explained that, after Claimant submitted documentation showing his rent on May 7, 2015, his FAP budget was recalculated and the expense was processed as a reported change to affect Claimant's June 1, 2015, ongoing benefits. The eligibility summary and May 20, 2015 Notice of Case Action both supported the Department's testimony that Claimant received \$93 in FAP benefits for May 2015 and his FAP benefits increased to \$157 effective June 1, 2015, (Exhibit B and C). At the hearing, Claimant confirmed that his FAP benefits had increased to \$157 for June 2015 and he was concerned only about his FAP allotment for the month of May 2015.

At issue is whether Claimant's housing expenses were properly excluded from the May 2015 calculation of Claimant's FAP benefits. A client's shelter expenses are included in the calculation of FAP benefits. BEM 554 (October 2014), p. 12. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the old expense is removed until the new expense is verified. BEM 554, p. 14.

In this case, the Department contended that Claimant did not report any shelter expenses in his redetermination and, accordingly, those expenses were removed from his ongoing benefits. A review of section 13 of the redetermination entitled "change in address and housing expenses" shows that Claimant was required to report changes in address or rent and to provide proof of the changed expenses if he moved or the household expenses changed. In response, Claimant listed a change in address, showing a new apartment at the same address he had previously identified as his residence. Claimant did not identify a change in rent or indicate that he had \$0 in rent. Based on Claimant's testimony that his rent amount had not changed since the

beginning of the year, the wording in the redetermination would not lead Claimant to conclude that he would have to provide proof of his rent.

If the Department believes verification of an expense is required, Department policy provides that a client must be advised what verification is required, how to obtain it and the due date. BAM 130 (October 2014), p. 3. In connection with a redetermination, the client has until the later of the end of the current benefit period or within 10 days after they are requested to return requested verification. BAM 210 (April 2015), p. 14. Because Claimant did not have a change in shelter expense, the Department did not act in accordance with Department policy when it removed the prior expense without first seeking verification of a change in the amount of the expense if questionable.

The remaining information used by the Department in calculating Claimant's FAP benefits was reviewed with Claimant and confirmed by him. It is noted that the May 20, 2015, Notice of Case Action shows that Claimant received the \$553 mandatory heat and utility standard towards the calculation of his excess shelter deduction, the most favorable utility standard available to a FAP client. BEM 554, pp. 14-20; RFT 255 (October 2014), p. 1. At the hearing, the Department did not dispute Claimant's ongoing eligibility for that 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 did not act in accordance with Department policy when it calculated Claimant's May 2015 FAP benefits.

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. Recalculate Claimant's FAP benefits for May 2015 to include shelter expenses and the mandatory heat and utility standard;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not for May 2015; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/23/2015**

Date Mailed: **6/23/2015**

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]