

**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.: 15-008903
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 02, 2015
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 2, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the Claimant's 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 was an ongoing recipient of Food Assistance (FAP) and received a reduction in FAP benefits.
2. The Department issued a Notice of Case Action on December 28, 2014 reducing the Claimant's FAP benefits to \$16 effective February 1, 2015.
3. The Claimant receives SSI and RSDI unearned income in the amount of \$747. The Claimant had not submitted ongoing medical expenses to the Department. The Claimant does not pay for her heat and electricity. The Claimant does pay for her telephone. Exhibit 2.

4. The Claimant's rent is \$225 and started in June 1, 2015. The Claimant did not provide the Department shelter verification for her rent.
5. The shelter form submitted by the Claimant's landlord listed the entire rent, not the Claimant's share.

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.

In this case, the Claimant's Food Assistance budget was reviewed at the hearing to determine why her FAP benefits were decreased and it was determined after a review of the budget and shelter expenses that the FAP budget was correct. The Claimant receives RSDI of \$571 and SSI in the amount of \$182 and a quarterly supplement of \$14 which totals \$767 and was confirmed as correct by the Claimant. The Claimant had not completed her shelter verification for rent, and thus the Department did not include any rent when calculating shelter expenses nor was the telephone allowance included as it was not reported.

The Claimant also does not pay for heat and electricity and thus is not entitled to the utility standard deduction of \$553 which she, as well as all FAP recipients, received. After October 1, 2014 this standard allowance was no longer automatically afforded all FAP recipients thus caused a FAP benefit reduction because shelter expenses dramatically reduced and could no longer offset income. The policy change provided:

Changes to BEM 554 effective October 1, 2014 removed the automatic mandatory heat in utility standard. For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u 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 h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the

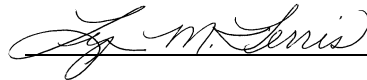
MANDATORY HEAT AND UTILITY STANDARD section.
BEM 554 (October 1, 2014) p. 15

The Department correctly included a Standard Deduction of \$154 off her income as her FAP group contains only herself, one member. RFT 255, (October 1, 2014) p.1. Based upon net income for a FAP group of one person, the Claimant is only entitled to FAP benefits in the amount of \$16. RFT 260 (October 1, 2014) p.8. Exhibit 2.

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 calculated the Claimant's Food Assistance Benefits.

DECISION AND ORDER

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



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/10/2015**

Date Mailed: **7/10/2015**

LMF / cl

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]
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