

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-009466  
Issue No.: 3008  
Case No.: [REDACTED]  
Hearing Date: July 23, 2015  
County: Oakland-District 4

**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 July 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], and her authorized hearing representatives [REDACTED] and [REDACTED]. Participants on behalf of the Department included [REDACTED], Assistance Payments Supervisor, and [REDACTED] Assistance Payments Worker.

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

**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 as a group of one.
2. On April 14, 2015, the Claimant reported to the Department that she had moved.
3. On April 14, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of heat and non-heat electric expenses by April 14, 2015.
4. On April 27, 2015, the Department notified the Claimant that it would reduce her monthly allotment of Food Assistance Program (FAP) benefits to \$ [REDACTED] effective June 1, 2015.

5. On June 9, 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.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 15.

For all Food Assistance Program (FAP) groups that received the heat and utility standard (h/u) 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. BEM 554, p 15.

FAP groups who have received a Home Heat Heating Credit (HHC) in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the application month are eligible for the h/u standard. FAP groups who are at redetermination or have their first case change and have received a HHC in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. The Department will verify receipt of HHC at application, redetermination or when a change is reported. BEM 554, p 18.

The Claimant was an ongoing Food Assistance Program (FAP) recipient on April 14, 2015, when she reported to the Department that she had moved. On April 14, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of heat and non-heat electric expenses by April 14, 2015. On April 27, 2015, the Department notified the Claimant that it would reduce her monthly allotment of FAP benefits to \$ [REDACTED]

The Department was acting in accordance with BEM 554 when it requested verification of utility expenses in response to the Claimant's report that she had moved. The Claimant does not dispute that she does not have a separate obligation to pay for heating separate from her monthly housing expense.

When a FAP recipient reports a change to housing expenses, the Department is required to request verification of expenses and will remove any existing housing expenses from its determination of benefits if those expenses are not verified.

The Claimant argued that she was eligible for the h/u credit due to her receipt of HHC greater than \$20 in the preceding 12 months prior months.

This Administrative Law Judge finds that FAP recipients that receive the h/u credit based on their HHC status within the previous 12 months do not lose their this status based on a move to a new home. While the Department is required to verify all housing expenses when a change of residence is reported, the HHC is not an expense. If the Claimant had provided the Department with sufficient verification of HHC credits greater than \$20 before her move, there was no requirement for additional verification after her move absent circumstances that would cause the Department to doubt whether she was properly receiving credit for the HHC.

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 determined the Claimant's monthly allotment of Food Assistance Program (FAP) benefits as of June 1, 2015.

### **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. Allow the Claimant a ten-day period to verify her receive of Home Heating Credits in the preceding 12 months.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of June 1, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **7/27/2015**

Date Mailed: **7/27/2015**

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:

