

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010001
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: July 30, 2015
County: Washtenaw

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 30, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Hearing Facilitator, and [REDACTED], Family Independence Manager.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 17, 2015, the Department sent the Claimant a Redetermination (DHS-1010) with a due date of April 1, 2015.
2. The Claimant has an obligation for rent in the monthly amount of \$ [REDACTED] which includes water and sewer.
3. The Claimant provided the Department with verification that she is obligated to pay for residential electric service with space heating.
4. On May 7, 2015, the Department notified the Claimant that she was approved for Food Assistance Program (FAP) benefit with a \$ [REDACTED] monthly allotment as of May 1, 2015.
5. On June 11, 2015, the Department received the Claimant's request for a hearing protesting the amount of her monthly 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. 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.

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. BEM 554, p 16.

The Claimant was an ongoing FAP recipient on March 17, 2015, when the Department sent her a Redetermination (DHS-1010) to examine her eligibility for continuing FAP benefits. The Claimant returned her Redetermination form in a timely manner and provided the Department with verification that she has a monthly rent expense of \$ [REDACTED] which includes water and sewer, and a copy of a utility bill for residential electric service with space heating. The Claimant's monthly rent expense of \$ [REDACTED] is a change from the \$ [REDACTED] that had been previously budgeted.

The Department granted the Claimant credit for the non-heat electric standard deduction and the standard telephone deduction.

This Administrative Law Judge finds that the verification document for the Claimant's electricity bill clearly states that it is for residential electric service with space heating.

Furthermore, the Shelter Verification (DHS-3688) from signed by the Claimant's landlord does not indicate that heat is included in her monthly rent obligation.

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 Food Assistance Program (FAP) eligibility because it improperly removed the heat and utility standard deduction from her eligibility budget.

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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of May 1, 2015.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. 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: **8/4/2015**

Date Mailed: **8/4/2015**

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:

