

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013286
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 02, 2015
County: Genesee-Union St District

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 September 2, 2015 from Lansing, Michigan. Claimant and Claimant's friend ([REDACTED] [REDACTED] personally appeared and provided testimony. [REDACTED] [REDACTED] (Eligibility Specialist/Hearings Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly determine Claimant's monthly Food Assistance Program (FAP) allotment amount?

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 actively receiving FAP benefits with a monthly allotment amount of \$158.00. (Exhibit 1, p. 7A).
2. On June 11, 2015, the Department received a letter from Claimant's landlord which indicated that Claimant's monthly rent expense increased to \$ [REDACTED] effective January, 2015. (Exhibit 1, p. 6).
3. On June 5, 2015, the Department mailed Claimant a Notice of Case Action (DHS-1605) which indicated that Claimant's monthly FAP amount would decrease to \$ [REDACTED] effective July 1, 2015 through October 31, 2015 because her shelter deduction amount, shelter expense amount or income has changed. (Exhibit 1, pp. 2-5).

4. Claimant requested a hearing to dispute the FAP amount on July 21, 2015. (Exhibit 1, p. 1).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Here, the Department argues that Claimant's monthly FAP amount was properly reduced because she produced a letter from her landlord that indicated that although her rent increased, she did not have any obligation to pay for her heat or electric. The Department also submits that Claimant verbally indicated that she does not pay for her heat or electric. Accordingly, the Department removed the \$ [REDACTED] heat and utility standard deduction from Claimant's FAP budget, which resulted in a significant reduction in her monthly FAP amount from \$ [REDACTED] to \$ [REDACTED]. Claimant, on the other hand, did not dispute the Department's contention but stated that a \$ [REDACTED] monthly FAP allotment was insufficient.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc.; see Actual Utilities in this item (BEM 554). Do **not** prorate the h/u standard even if the heating/cooling expense is shared. FAP groups that qualify for the h/u standard **do not** receive any other individual utility standards. Do **not** require verification of the other utility standards if the household is already eligible for the h/u standard. BEM 554 (10-1-2014), pp. 14-15.

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. Verify the excess heat expense at application, redetermination, or when a change is reported. Client statement is no longer acceptable; verification is required. BEM 554, p. 17.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, the record evidence shows that although Claimant's monthly rent expense appeared to increase to \$ [REDACTED] effective January, 2015, there was no evidence that she paid for her heat separately. The record shows that Claimant's monthly rent included heat, which indicates that she is no longer entitled to the \$553.00 h/u standard.

The Department properly determined Claimant's monthly FAP allotment. Claimant's housing expenses were \$354.00 per month including \$34.00 per month for telephone costs, her total shelter amount was \$ [REDACTED] less 50% adjusted gross income resulted in an adjusted excess shelter amount of \$ [REDACTED] (Exhibit 1, pp. 8 & 8A). Because Claimant had a certified group size of 1 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED] See RFT 260.

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 reduced Claimant's monthly FAP amount to \$ [REDACTED]

DECISION AND ORDER

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



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **9/4/2015**

Date Mailed: **9/4/2015**

CAP/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 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:

