

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013295
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: September 09, 2015
County: WAYNE-DISTRICT 76

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 September 9, 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 [REDACTED], Hearing Facilitator and Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate and reduce the Claimant's Food Assistance 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 Department issued a Verification Checklist dated [REDACTED] as part of a redetermination. Exhibit 1
2. The Department issued a Notice of Case Action on [REDACTED], reducing the Claimant's FAP benefits to \$141. Exhibit 2
3. The Claimant did not provide a heat or electric bill in response to the Verification Checklist. The Department did not receive the Claimant's lease.
4. The Claimant requested a hearing on [REDACTED], protesting the Department's actions.

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 requested a hearing to determine whether her FAP benefit amount was correct and whether the Department properly reduced her benefits. At the hearing, the Claimant testified that she did not provide the heat or electricity bill which she pays because the bill is in her cousin's name. BEM 554 provides:

Responsibility to pay means that the expense is in the name of a person in the FAP group.

Exception: If the expense is in someone else's name, allow the expense if the FAP group claims the expense **and** the service address on the bill is where they live. BEM 554, (October 1, 2015), p. 2.

Thus, based upon the policy referenced above, the Claimant is entitled to claim the utility expenses for heat and electricity as her obligation as based upon her testimony the service address on the bill is where she lives. Therefore once the bill is reviewed and accepted by the Department, Claimant is entitled to the appropriate utility expense to be included in the FAP budget as a shelter expense and her FAP budget will be recomputed.

The Claimant also testified that she provided the Department with a lease, which she mailed to the Department. The Claimant did not bring the lease to the hearing, nor did the Department's Bridges electronic mail system contain any reference to receipt of the lease. Therefore, the Department correctly did not include rent in the FAP budget calculation as no verification was provided to the Department. The Claimant may provide the Department with the lease at any time and her FAP benefits will be recalculated.

A review of the Claimant's FAP budget as shown in the Notice of Case Action was made at the hearing and it is determined that the Department correctly calculated the

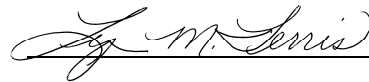
FAP benefits and correctly reduced same. The only shelter expense used for determining the FAP benefits was a telephone expense of \$34, the Claimant confirmed that she does receive unearned income in the amount of \$871 and she has a FAP group of 2. For a FAP group of two members, the Claimant is entitled and received a standard deduction of \$154. Thus, based upon the review of the budget the Department correctly found the Claimant was entitled to \$141 in FAP benefits based upon her net income of \$717. ($\$871 - \$154 = \717) Exhibit 2. RFT 255, (October 1, 2015), p.1; RFT 260, (October 1, 2015) p.10. As explained at the hearing, the Claimant had previously verified rent and heat utility shelter expenses which were not applied in the current FAP budget, as none were verified by the Claimant. Once these expenses are provided to the Department, the Claimant's FAP budget will be recalculated and FAP benefits will likely increase.

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 current FAP benefits in the amount of \$141 and the Department's reduction of the FAP benefit amount was also correct.

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: **9/10/2015**

Date Mailed: **9/10/2015**

LMF / hw

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:

