

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017277
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: December 10, 2015
County: KENT-DISTRICT 1
(FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on December 10, 2015, from Grand Rapids, Michigan. [REDACTED], the Claimant, appeared on her own behalf. [REDACTED], friend, appeared as a witness for Claimant. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM); and [REDACTED], Eligibility Specialist (ES).

ISSUE

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

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 is an ongoing FAP recipient.
2. On July 17, 2015, the Department received verification that Claimant was staying at a shelter and had entered the program there on July 12, 2015. (Department Exhibit A, p. 4)
3. The Department updated the FAP budget to reflect no housing expenses based on the verification that Claimant was homeless. (Department Exhibit A, pp. 14-16)

4. On July 20, 2015, a Notice of Case Action was issued to Claimant stating the FAP benefits would decrease to \$ [REDACTED] per month effective August 1, 2015, for a group size of one based on the household income and expenses. (Department Exhibit A, pp. 5-6)
5. On September 8, 2015, the Department received verification that Claimant had been staying at a shelter and had entered the program there on July 21, 2015, July 22, 2015, and September 3, 2015. (Department Exhibit A, p. 18)
6. On September 8, 2015, the Department verified through collateral telephone contacts that Claimant was staying at her former address and paying rent and utility expenses as of September 1, 2015. (Department Exhibit A, p. 19)
7. The Department updated the FAP budget to reflect the current housing expenses. (Department Exhibit A, pp. 20-22)
8. On September 8, 2015, a Notice of Case Action was issued to Claimant stating the FAP benefits would increase to \$ [REDACTED] per month effective October 1, 2015, for a group size of one based on the household income and expenses. (Department Exhibit A, pp. 23-25)
9. On September 16, 2015, Claimant filed a hearing request contesting the Department's determination. (Department Exhibit A, pp. 2-3)

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (July 1, 2015 and October 1, 2015), pp. 1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2014 and

October 1, 2015), p. 12. Heat and utility expenses can also be included as allowed by policy. The Department allows only the utilities for which a client is responsible to pay. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. 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. However, FAP groups who have received a home heating credit (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. FAP groups who have received a Low Income Home Energy Assistance Payment (LIHEAP) payment or a LIHEAP payment was made on their behalf 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 not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. The Department is to use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23. Verified allowable medical expenses are also considered in the FAP budget. BEM 554, p. 8-12.

The Department counts the gross benefit amount of current Social Security Administration (SSA) issued Retirement Survivors and Disability (RSDI) and Supplemental Security Income (SSI) as unearned income. BEM 503, (July 1, 2015), pp. 28 and 32.

State SSI Payments (SSP) are issued quarterly. The Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33.

In this case, Claimant explained that she went to the shelter and provided the Department with verification that she was homeless in order to qualify for assistance with past due rent through the State Emergency Relief (SER) program. Claimant explained that there had been a theft issue with someone accessing her money. Claimant stated the Department advised her one of the ways to qualify for SER would be to go to the shelter and get verification that she was homeless. Claimant asserted that she was told doing this would not affect her food benefits. Claimant stated she was only at the shelter for a few days each time and went back and forth to provide additional verification for the Department. Claimant and her witness explained that in between, Claimant stayed at her normal address but was unable to pay rent. However, Claimant was not able to provide specific testimony regarding reporting to the Department that she was no longer staying at the shelter after a few days, such as when she reported this to the Department or who she spoke with. Overall, Claimant asserted that it was not fair for the Department to drastically cut the amount of her food benefits when they knew she was already trying to get assistance with her past due rent. (Claimant Testimony)

The Department explained that when the verification was received that Claimant was homeless, they removed the ongoing rent and utility expenses from the FAP budget, resulting in the decrease in her monthly FAP allotment. (FIM and ES Testimony) This

was in accordance with the above cited BEM 554 policy regarding shelter expenses. It would not be consistent for Claimant to have ongoing shelter expenses budgeted for the FAP program while being considered homeless for to qualify for another program, SER, during the same time period. The Department properly removed the housing expenses from Claimant's FAP budget upon receipt of the verification that Claimant was homeless. The Department presented sufficient evidence to establish that the FAP decrease was proper due to Claimant not having any housing expenses, based on the verification that Claimant was homeless.

There was insufficient credible evidence to establish the Claimant reported and verified that she was no longer homeless and paying housing expenses prior to the Department's September 8, 2015, collateral contacts clarifying Claimant's housing status. On September 8, 2015, the Department received verification that Claimant had been staying at the shelter and had entered the program there on July 21, 2015, July 22, 2015, and September 3, 2015. (Department Exhibit A, p. 18) However, on September 8, 2015, the Department also verified through collateral telephone contacts that Claimant was staying at her former address and paying rent and utility expenses as of September 1, 2015. (Department Exhibit A, p. 19) The Department properly processed the September 8, 2015, report and verification that Claimant again had housing expenses for the FAP case.

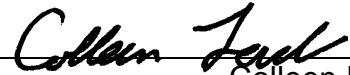
The income and expense figures utilized in the new FAP budget were reviewed with the parties during the hearing proceedings. No errors with these figures were found based on the information available at the Department at the time this budget was calculated. The only issue noted was that no medical expenses were included in the FAP budget. However, Claimant testified that she had not reported or provided verification of any medical expenses to the Department. The Department presented sufficient evidence to establish that the amount the FAP allotment after adding rent and utility expenses back into the FAP budget was proper based on the available income and expense information at that time.

Overall, the evidence establishes that the Department properly calculated the FAP budgets utilizing the available income and expense information at the time of these case actions. As discussed during the hearing proceedings, Claimant may wish to report and verify any changes that need to be made, such as any allowable medical expenses, so that the Department can update the FAP budget for determining the ongoing FAP monthly allotment.

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 determined the amounts of Claimant's FAP monthly allotment.

DECISION AND ORDER

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



Colleen Lack

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **12/17/2015**

Date Mailed: **12/17/2015**

CL / sb

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:

