

**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.: 16-000225
Issue No.: 3002, 3008
Agency Case No.: [REDACTED]
Hearing Date: February 18, 2016
County: Genesee-District 6

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 February 18, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

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.
2. On November 12, 2015, this Administrative Law Judge ordered the Department to allow the Claimant the opportunity to provide verification to clarify his housing expenses and redetermine his eligibility for Food Assistance Program (FAP) benefits.
3. On November 19, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of his housing expenses by November 30, 2015.
4. The Claimant provided the Department with verification that he heats his home with propane fuel.
5. The Claimant does not hold legal title to the property where he resides.

6. On January 6, 2016, the Department received the Claimant's request for a hearing protesting the Department's determination of his eligibility for Food Assistance Program (FAP) benefits and their compliance with a previous administrative order.

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 allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Shelter expenses are allowed when billed. The expenses do not have to be paid to be allowed. Late fees and/or penalties incurred for shelter expenses are not an allowable expense. The expense must be a continuing one. Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), pp 12-13.

The Claimant is an ongoing FAP recipient. The Claimant was granted a prior administrative hearing and on November 12, 2015, an order was issued to the Department to allow the Claimant a ten-day period to clarify his shelter expenses and then redetermine his eligibility for FAP benefits.

On November 19, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting that he provide verification of his housing expenses by November 30, 2015. The Claimant responded to this request in a timely manner.

The evidence supports a finding that the Claimant is entitled to the standard heat and utility deduction because he has an obligation to pay for heating costs because he pays for propane fuel separate from any housing expenses.

The evidence supports a finding that the Claimant is not entitled to any expenses for housing because he failed to verify that he has been billed for any of these expenses and is therefore not obligated to pay them.

The Department presented substantial evidence that the Claimant does not hold title or lease to his residence and that he has no obligation to pay for housing expenses.

The Claimant argued that he intends to re-establish title to his residence and has been working with the local land bank that holds title to his residence towards that goal.

However, the Claimant's intentions are insufficient to establish a current obligation to pay housing costs at his residence.

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 that the Claimant is not entitled to shelter expenses other than the standard heat and utility credit and properly applied his expenses towards his eligibility for the Food Assistance Program (FAP).

DECISION AND ORDER

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



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

Date Mailed: **2/23/2016**

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 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:

