

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009226
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 6, 2015
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, a telephone hearing was held on July 6, 2015, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's spouse, testified on behalf of Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], district secretary, and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly determined 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. Claimant was an ongoing FAP benefit recipient.
2. Claimant's FAP eligibility was scheduled to end [REDACTED].
3. On an unspecified date before [REDACTED], Claimant listed an approximate \$1,800/year property tax obligation on a submitted Redetermination.
4. Claimant did not submit accompanying proof of the property tax obligation with the Redetermination.
5. MDHHS did not request further proof of Claimant's property tax obligation.

6. On [REDACTED], MDHHS redetermined Claimant's FAP eligibility to be \$223/month, effective May 2015, in part, by factoring \$0 in housing expenses.
7. On [REDACTED], Claimant requested a hearing to dispute the amount of redetermined FAP benefits.

CONCLUSIONS OF LAW

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

Claimant requested a hearing to dispute his FAP eligibility, effective May 2015. It was not disputed that Claimant's May 2015 FAP eligibility was processed by MDHHS as part of a redetermination. Claimant testified that he disputed the FAP amount because he received more FAP benefits in his previous benefit period. A previous FAP benefit period has no effect on a client's redetermined eligibility. BEM 556 outlines how MDHHS is to calculate FAP eligibility.

FAP eligibility determinations factor the following: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, Claimant was asked if he disputed any of the amounts from a MDDHS budget (Exhibits 1-3). Claimant's only dispute concerned property taxes.

During the hearing, MDHHS verified that Claimant reported an approximate \$1,800 annual tax obligation on his submitted redetermination documents. It was not disputed that Claimant failed to submit verification of the property tax obligation. MDHHS requires property tax obligations to be verified (see BEM 554). Claimant contended that MDHHS should have requested proof of the verification before Claimant's FAP eligibility was redetermined.

For FAP benefits, the DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210 (April 2015), p. 14. In completing the redetermination, Bridges (the DHS database) generates a verification checklist (VCL) for any missing verifications. *Id.*, p. 16.

MDHHS testimony conceded that a Verification Checklist was not mailed to Claimant in response to Claimant's reporting of a property tax obligation. MDHHS must provide Claimant the opportunity to verify the obligation, via Verification Checklist, before excluding the obligation from Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to request proof of Claimant's property tax obligation prior to redetermination of Claimant's FAP eligibility. It is ordered that MDHHS perform the following actions:

- (1) mail Claimant a Verification Checklist requesting proof of Claimant's property tax obligations; and
- (2) initiate a supplement of Claimant's FAP eligibility, effective May 2015 and if necessary, based on Claimant's response to the Verification Checklist.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/7/2015**

Date Mailed: **7/7/2015**

CG / 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:

