

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-010654
Issue No.: 3001
Case No.: ██████████
Hearing Date: July 29, 2015
County: Macomb (12)

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, an in-person hearing was held on July 29, 2015, from Clinton Township, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ hearing facilitator.

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 was the only member of a FAP benefit group.
3. Claimant did not report medical expenses to MDHHS.
4. Claimant paid ██████████ in rent.
5. Claimant's rental obligation included all of Claimant's utilities.

6. On June 5, 2015, MDHHS determined that Claimant was eligible to receive [REDACTED] in FAP benefits, effective July 2015, in part, by not crediting Claimant with any utility payment obligation and by factoring \$0 in monthly medical expenses.
7. On June 17, 2015, Claimant requested a hearing to dispute the FAP benefit determination for July 2015.

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 July 2015. Claimant testified that he was particularly dissatisfied that his FAP eligibility decreased from [REDACTED] to [REDACTED].

MDHHS testified that the FAP decrease was primarily caused by a change in MDHHS policy which previously allowed FAP budget utility credits to all FAP recipients; current policy only allows utility credits for utilities that clients are responsible to pay. Though the MDHHS explanation was sensible, it does not guarantee that Claimant's FAP eligibility was properly calculated. BEM 556 outlines how MDHHS is to calculate FAP eligibility.

MDHHS factored Claimant unearned income of [REDACTED] in determining Claimant's FAP eligibility. Claimant testified that he did not dispute the amount budgeted by MDHHS.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups with one or more SDV members, MDHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. Claimant's group is an SDV group because Claimant is disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant testimony conceded that he did not have child support or day care expenses.

Claimant testified that he incurred [REDACTED] in medical expenses. Claimant testified that he reported the expenses to MDHHS at some point in the past. MDHHS testimony responded that Claimant did not report medical expenses on his two most recently submitted Redeterminations, including one from April 2015. The MDHHS testimony was credible and not disputed by Claimant. It is found that Claimant failed to report medical expenses to MDHHS.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (4/2015), p. 11. Because Claimant did not report to MDHHS that he incurred medical expenses, MDHHS properly did not factor medical expenses in Claimant's FAP budget.

Claimant's FAP benefit group receives a standard deduction of [REDACTED] RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the FAP group's countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be [REDACTED].

It was not disputed that Claimant's housing expense was [REDACTED]. Claimant's utility obligation was disputed.

Claimant testified that all of his utilities were included with his monthly rent. Claimant contended that his FAP budget should include utility credits because he was responsible for paying utilities as part of his rental obligation.

An expense is allowed (in a FAP budget) if all of the following: the service is provided by someone outside of the FAP group, someone in the FAP group has the responsibility to pay for the service in money, and verification is provided, if required. BEM 554 (10/2014), p. 1. Responsibility to pay means that the expense is in the name of a person in the FAP group. *Id.*, p. 2. An exception to the responsibility to pay is if the expense is in someone else's name, (MDHHS is to) allow the expense if the FAP group claims the expense and the service address on the bill is where they live. *Id.*

Based on a literal interpretation of the above-cited policy, it could be found that MDHHS erred by not crediting Claimant with a utility obligation because Claimant alleged that he is indirectly responsible for utility payments and the utility bills are for his address. Such an interpretation is contradicted by more on-point policy.

A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments (MDHHS) must use the h/u standard. *Id.*, p. 16. This policy implies that a utility obligation must be factored only when the expense is separate from a rental obligation. In the present case, Claimant conceded that utilities were not separate from his rental obligation. MDHHS might be required to credit Claimant with a utility obligation if Claimant provided

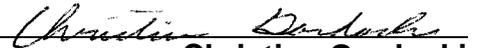
documentation that he separately paid for a utility obligation from his rent; no such documentation was presented. It is found that MDHHS properly did not credit Claimant with payment of utilities because Claimant had no utility payment obligation separate from his rental obligation.

MDHHS only credits FAP benefit groups with what is called an “excess shelter” expense. This expense is calculated by subtracting half of Claimant’s adjusted gross income from Claimant’s total shelter obligation. Claimant’s excess shelter amount is found to be [REDACTED] (rounding up to nearest dollar).

The FAP benefit group’s net income is determined by taking the group’s adjusted gross income and subtracting the allowable excess shelter expense. Claimant’s FAP benefit group’s net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant’s group size and net income, Claimant’s proper FAP benefit issuance is found to be [REDACTED] the same amount calculated by MDHHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Claimant’s FAP eligibility to be [REDACTED] effective July 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Signed: July 31, 2015

Date Mailed: July 31, 2015

CG/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]