

**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.: 15-015546
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: October 19, 2015
County: WAYNE-DISTRICT 31

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Petitioner'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 October 19, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist; and [REDACTED] Hearings Facilitator.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits to \$88 effective July 1, 2015?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of FAP benefits. See Exhibit B, pp. 10-11.
2. Petitioner's FAP benefits decreased from \$194 to \$88 effective [REDACTED]. See Exhibit B, p. 10.
3. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. 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.

Preliminary matter

As a preliminary matter, on [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FAP benefits as follows: (i) \$88 for [REDACTED]; (ii) \$95 for [REDACTED]; and (iii) \$88 for [REDACTED]. See Exhibit A, pp. 7-10. However, Petitioner's Benefit Summary Inquiry showed that she had already been issued \$194 in benefits for the above periods, other than her decrease to \$88 effective [REDACTED]. See Exhibit B, pp. 10-11. It appeared that the Department was in the process of possibly initiating recoupment of her benefits. But, the Department and Petitioner both agreed that no Notice of Overissuance letter (DHS-4358A) has yet been issued. See BAM 705 (July 2014), p. 9 and BAM 715 (July 2014), p. 10 (client notification of overissuance). In fact, a review of the budgets and Benefit Summary Inquiry shows no recoupment present. See Exhibit B, pp. 1-11.

Based on the above information, the undersigned will only address Petitioner's decrease in FAP benefits in the amount of \$88 effective [REDACTED]. See BAM 600 (April 2015 and October 2015), pp. 1-6. The Department has yet to take any recoupment action on Petitioner's prior benefits periods from on or around September 2014 to June 2015. Petitioner can request another hearing if the Department initiates recoupment/sends her Notice of Overissuance. See BAM 705, pp. 10-11 and BAM 715, pp. 11-12 (hearings requested for active FAP cases for overissuances).

FAP benefits

It was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented the July 2015 FAP budget for review. See Exhibit A, pp. 4-5.

First, the Department calculated Petitioner's group gross unearned income to be \$1,174, which comprised of \$882 in Retirement, Survivors, and Disability Insurance (RSDI) benefits and \$292.32 in pension benefits. See Exhibit A, pp. 1 and 4. Petitioner did not dispute the amount she received in Social Security benefits; however, she argued that she only received \$283 in pension income. As part of the evidence record,

the Department presented verification of the pension, which Petitioner provided to the Department on June 29, 2015. See Exhibit C, p. 1. It should be noted that Petitioner only appeared to present a partial copy of the pension verification. See Exhibit C, p. 1. Nevertheless, the verification indicated a payment date of [REDACTED] and two separate payment sources in the amounts of \$216.12 and \$76.20, which results in a total payment of \$292.32. See Exhibit C, p. 1.

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503 (July 2015), p. 28. The Department counts the gross benefit amount as unearned income. BEM 503, p. 28. Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. BEM 503, p. 27. The Department counts the gross benefit as unearned income. BEM 503, p. 27.

Verification may be from any of the following: (i) documents (example: pay stubs or award notice); (ii) letter or document from person/agency making the payment; (iii) document from or collateral contact with a knowledgeable source; (iv) electronic verification from a reliable source; or (v) consolidated inquiry. BEM 500 (July 2015), p. 13. The verification must confirm the gross amount. BEM 500, p. 13. If unknown, the frequency of the payment must also be verified. BEM 500, p. 13.

Based on the above information, the Department properly calculated Petitioner's gross unearned income in accordance with Department policy. BEM 500, p. 13 and BEM 503, pp. 27-28. As stated above, Petitioner did not dispute the RSDI income and instead, disputed the amount she receives from the pension. The evidence was persuasive to show that Petitioner receives \$292.32 in monthly pension income effective [REDACTED]. See Exhibit C, p. 1.

Then, the Department properly applied \$154 standard deduction for Petitioner's group size of one. See Exhibit A, p. 4 and RFT 255 (October 2014), p. 1.

Moreover, the Department calculated Petitioner's medical expenses to be zero. See Exhibit A, p. 4. During the hearing, Petitioner indicated that she had medical expenses; however, she testified this was the first time that she notified the Department of her medical expenses. In fact, Petitioner testified that she had verification of a medical expense at the hearing, but again, testified that she never provided verification of her medical expense prior to the hearing.

For groups with one or more SDV member, the Department allows medical expenses that exceed \$35. BEM 554 (October 2014), pp. 1 and 8-12 (allowable medical expenses). The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11.

Based on the above information, the Department properly calculated Petitioner's medical expenses to be zero. Petitioner acknowledged that this hearing was the first time she notified/provided verification of her medical expenses to the Department. As such, the Department properly calculated Petitioner's medical expense to be zero as Petitioner never reported the amount of medical expenses to the Department until this hearing. See BEM 554, pp. 1 and 8-12. As a result of the \$154 standard deduction, the Department properly determined that Petitioner's adjusted gross income is \$1,020. See Exhibit A, p. 4.

Next, the Department determines Petitioner's excess shelter deduction, which is discussed below.

The FAP – Excess Shelter Deduction budget indicated that Petitioner's monthly housing expense is \$625, which she did not dispute. See Exhibit A, p. 6. The Department also provided Petitioner with the \$553 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. See Exhibit A, p. 6; BEM 554, pp. 14-15; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the mandatory h/u standard; this amount is found to be \$1,178. See Exhibit A, p. 6. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,020 adjusted gross income. Fifty percent of the adjusted gross income is \$510. See Exhibit A, p. 6. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$668. See Exhibit A, pp. 4 and 6.

Finally, the Department subtracts the \$1,020 adjusted gross income from the \$668 excess shelter deduction, which results in a net income of \$352. See Exhibit A, pp. 4-5. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that her FAP benefit issuance is found to be \$88 effective [REDACTED]. RFT 260 (October 2014), p. 5.

DECISION AND ORDER

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 decreased Petitioner's FAP benefits to \$88 effective [REDACTED].

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/20/2015**

Date Mailed: **10/20/2015**

EF / 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:

