

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

IN THE MATTER OF:

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██████████
████████████████████

MAHS Reg. No.: 15-016668
Issue No.: 3001
Agency Case No.: ██████████
Hearing Date: November 02, 2015
County: Macomb-District 36

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 November 2, 2015, from Detroit, Michigan. Petitioner appeared for the hearing with her husband, ██████████ and represented herself. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case on the basis that her net income exceeded the limit for FAP purposes?

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 was an ongoing recipient of FAP benefits.
2. In connection with a Redetermination, Petitioner's eligibility for FAP benefits was reviewed. (Exhibit A)
3. On August 10, 2015, the Department sent Petitioner a Notice of Case Action informing her that effective September 1, 2015, her FAP case would be closed on the basis that her net income exceeded the limit for FAP benefits. (Exhibit B)
4. On September 8, 2015, Petitioner requested a hearing disputing the closure of her FAP case.

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.

Petitioner requested a hearing disputing the Department's closure of her FAP case effective September 1, 2015, based on excess income. At the hearing, the Department testified that after processing Petitioner's Redetermination, it was determined that her group's net income was in excess of the income limit for FAP benefits. (Exhibit A). The Department presented a FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly concluded that Petitioner's was ineligible for FAP benefits based on excess income. (Exhibit C).

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2015), pp. 1 – 5. The Department considers the gross amount of money earned from Retirement, Survivors, and Disability Insurance (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2015), p. 28. The Department concluded that Petitioner's group had unearned income in the amount of \$2612 which it testified consisted of Petitioner and her husband's monthly RSDI benefits. The Department presented SOLQs in support of its testimony that Petitioner received gross RSDI benefits in the amount of \$1184.90 and that Petitioner's husband receives gross RSDI benefits in the amount of \$1426.90. (Exhibit D). After further review of the documents and Department policy, the Department properly calculated Petitioner's gross unearned income of \$2612.

The deductions to income on the net income budget were also reviewed. Petitioner and her husband are considered senior/disabled/veteran (SDV) members. BEM 550 (July 2015), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.

- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

Petitioner did not have any earned income and there was no evidence presented that she had any dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care or child support expenses. The budget shows a medical deduction of \$198, which the Department testified was based on [REDACTED] \$104.90 Medicare insurance premium and an additional \$128.40 hospital premium. The medical deduction does not take into consideration Petitioner's \$104.90 Medicare insurance premium as reflected by the SOLQ. Thus, the Department did not properly determine the amount of Petitioner's medical deduction. Based on Petitioner's confirmed two person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Petitioner's excess shelter deduction of \$0, the Department testified that it considered the \$456 in monthly rent that it had on file for Petitioner and the \$553 heat and utility (h/u) standard. Although Petitioner testified that her monthly rent increased to \$474 in December 2014 and that she informed the Department of the increase in December 2014, no changes were reported on the Redetermination and Petitioner did not provide any documentation or supporting evidence to establish that the Department was aware of her increased rental expenses. Petitioner stated that effective December 1, 2015, her rent would be increasing again to \$489. Petitioner was informed that any future rental increase would impact future FAP eligibility. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was not eligible for an excess shelter deduction. BEM 556, pp. 4-5.

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 although it is unclear what impact, if any, the error in the calculation of the medical deduction would have on Petitioner's income eligibility for FAP, the Department did not act in accordance with Department policy when it closed Petitioner's FAP case based on excess income, as the medical deduction was improperly calculated.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP case effective September 1, 2015;
2. Recalculate Petitioner's FAP budget for September 1, 2015, ongoing;
3. Issue FAP supplements to Petitioner for any FAP benefits that she was entitled to receive but did not from September 1, 2015, ongoing, in accordance with Department policy; and
4. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/6/2015**

Date Mailed: **11/6/2015**

ZB / tlf

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]
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