

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

IN THE MATTER OF:



MAHS Reg. No.: 15-017482
Issue No.: 3000; 3008
Agency Case No.: [REDACTED]
Hearing Date: November 18, 2015
County: WAYNE-DISTRICT 19

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 November 18, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment?

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 C, pp. 4-5.
2. On or around [REDACTED], Petitioner indicated that she filed a previous hearing request, disputing the decrease for her July 2015 FAP allotment. See Exhibit B, pp. 1-3.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to \$16 effective [REDACTED]. See Exhibit C, pp. 1-3.
4. On [REDACTED], the Department sent Petitioner a Notice of Hearing informing her of the previous hearing scheduled on [REDACTED] (See Reg. No. 15-009165).

5. On [REDACTED] Petitioner failed to attend the previous scheduled hearing and the Department issued an Order of Dismissal on [REDACTED].
6. Effective [REDACTED], Petitioner's FAP benefits increased to a monthly allotment of \$201. See Exhibit C, p. 4.
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to \$196 effective [REDACTED] ongoing. See Exhibit A, pp. 3-4.
8. On [REDACTED] Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.

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.

FAP allotment for July 2015

On or around [REDACTED], Petitioner indicated that she filed a previous hearing request, to dispute her decrease in FAP benefits for July 2015. See Exhibit B, pp. 1-3. Petitioner testified that she only received \$16 for July 2015 and filed the previous hearing request to dispute this amount.

On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to \$16 effective [REDACTED]. See Exhibit C, pp. 1-3.

On [REDACTED], the Department sent Petitioner a Notice of Hearing informing her of the previous hearing scheduled on [REDACTED] (See Reg. No. 15-009165).

On [REDACTED], Petitioner failed to attend the hearing and the Department issued an Order of Dismissal on [REDACTED].

Based on the foregoing information and evidence, the undersigned lacks the jurisdiction to address Petitioner's FAP allotment for [REDACTED]. First, Petitioner testified that her previous hearing request was submitted to dispute her July 2015 benefits. Petitioner was afforded the opportunity to dispute her decrease at the previous scheduled hearing. However, the evidence established that Petitioner failed to appear for the hearing and the hearing in that matter was dismissed. As such, the undersigned lacks the jurisdiction to address her FAP decrease for July 2015 because the undersigned cannot readdress an issue that has already been dismissed. See BAM 600 (April 2015 and October 2015), pp. 1-6.

Second, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to \$16 effective [REDACTED]. See Exhibit C, pp. 1-3. However, Petitioner's current hearing request is dated [REDACTED]. See Exhibit A, p. 2. Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action dated [REDACTED] and is, therefore, dismissed for lack of jurisdiction.

FAP allotment for [REDACTED], ongoing

Shortly after commencement of the hearing, Petitioner acknowledged that she disputed her FAP decrease effective [REDACTED]. Thus, the undersigned reviewed the October 2015 budget in order to determine if it was properly calculated. See Exhibit A, pp. 11-12. However, towards the end of the hearing, Petitioner testified that she is not disputing her FAP benefits for [REDACTED], ongoing. In fact, Petitioner testified that she did not dispute her FAP benefits from [REDACTED], ongoing. Petitioner testified that she is only disputing her \$16 FAP allotment she received for July 2015. However, as stated previously, the undersigned lacks the jurisdiction to address Petitioner's FAP allotment for July 2015. Ultimately, Petitioner testified that she is not disputing her FAP benefits from [REDACTED], ongoing. Because Petitioner does not dispute her FAP benefits for the period of [REDACTED], ongoing, the undersigned finds that the Department acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment effective [REDACTED], ongoing.

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 (i) the undersigned lacks the jurisdiction to address Petitioner's FAP allotment for [REDACTED]; and (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment effective [REDACTED], ongoing.

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: **11/19/2015**

Date Mailed: **11/19/2015**

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:

