

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

IN THE MATTER OF:



MAHS Reg. No.: 15-017998
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 18, 2015
County: Wayne (55) Hamtramck

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 3-way telephone hearing was held on November 18, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Case Manager.

ISSUE

Did the Department properly calculate and decrease the Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of FAP benefits, which were reduced after a review on October 1, 2015, to \$ [REDACTED]
2. The Department issued a Notice of Case Action on September 12, 2015, reducing the Petitioner's FAP benefits.
3. The Petitioner receives RSDI in the amount of \$ [REDACTED] and pays rent of \$ [REDACTED]. The Petitioner also pays for heat and electricity. The Petitioner received and is entitled to a standard deduction off her income of \$ [REDACTED]. The Petitioner has a FAP group of one member.

4. The Petitioner requested a timely hearing on September 30, 2015, protesting the FAP reduction.

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.

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 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Supplemental Security Income (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of her FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), 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.

In this case, Petitioner did not have any earned income; and there was no evidence presented that she had any dependent care, child support, or medical expenses over \$█. The Petitioner was specifically asked if she paid Medicare Part B premiums, and it was determined she did not. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her confirmed one-person group size, the Department properly applied the \$█ standard deduction. RFT 255 (October 2014), p. 1.

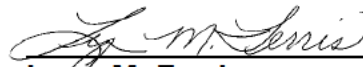
In this case, the Department reduced the Petitioner's FAP benefits to \$ [REDACTED] on October 1, 2015, after a review. The following facts were confirmed as correct by Petitioner during the hearing, and the FAP budget was reviewed. The Petitioner receives RSDI in the amount of \$ [REDACTED] and pays rent of \$ [REDACTED]. The Petitioner also pays for heat and electricity. The Petitioner received and is entitled to a standard deduction off her income of \$ [REDACTED] as her FAP group has one member and a heat and utility allowance of \$ [REDACTED]. The FAP budget was reviewed at the hearing and is determined to be correct. Exhibit B. BEM 554, (October 2015), p. 16-19. BEM 556 (July 1, 2013) pp. 4-5; RFT 255, p. 1.

The Department correctly deducted a standard deduction from the Petitioner's income of \$ [REDACTED] for a group of one person leaving adjusted gross income of \$ [REDACTED]. The Department also correctly determining the excess shelter amount to be \$ [REDACTED]. The excess shelter is determined by adding rent and the heat and utility allowance together to get total housing expense of \$ [REDACTED] ($\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED]$). RFT 255, (October 1, 2015) p.1. The next step is to deduct one half of the adjusted gross income from the housing expenses. In this case, adjusted gross income is \$ [REDACTED] so half that amount is \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). The Department correctly determined the excess shelter expense to be \$ [REDACTED]. The excess shelter expense ($\$ [REDACTED]$) is then deducted from the adjusted gross income ($\$ [REDACTED]$) to get net income, which in this case was determined correctly to be \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). An FAP group of one person with net income of \$ [REDACTED] is entitled to \$ [REDACTED] of FAP benefits. RFT 260, (October 1, 2015) p.6.

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 reduced the Petitioner's FAP benefits to \$ [REDACTED].

DECISION AND ORDER

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



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/18/2015**

LMF/jaf

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:

