

**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.: 15-018688
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: December 2, 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 December 2, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist; and [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective [REDACTED], ongoing?

FINDINGS OF FACT

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

1. On [REDACTED], Petitioner applied for FAP benefits and he was subsequently approved for \$75 for the benefit period of July 2015. See Exhibit A, pp. 11-32.
2. Effective [REDACTED], Petitioner's FAP benefits increased to \$93.
3. Effective [REDACTED], Petitioner's FAP benefits decreased to a monthly allotment of \$78.
4. On [REDACTED], the Department testified that it sent Petitioner a Notice of Case Action notifying him that his FAP benefits increased to \$108 effective [REDACTED].

5. On [REDACTED], Petitioner filed a hearing request, disputing his reduction in FAP benefits to the amount of \$78. See Exhibit A, pp. 2-3.
6. On [REDACTED], the Department testified that it sent Petitioner another Notice of Case Action notifying him that his FAP benefits increased to \$123 effective [REDACTED].

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.

In this case, the Department testified that Petitioner was no longer receiving the heat/utility standard, which resulted in his FAP assistance decreasing to \$78. See BEM 554 (October 2014 and October 2015), pp. 14-20 and RFT 255 (October 2014 and October 2015), p. 1. The Department then testified that Petitioner submitted a rent receipt (received on [REDACTED]), which increased his benefits to \$108. See Exhibit A, pp. 1 and 7. Based on the Department's testimony, though, the increase did not take into effect until [REDACTED]. On [REDACTED], the Department testified that it sent Petitioner a Notice of Case Action notifying him that his FAP benefits increased to \$108 effective [REDACTED].

Additionally, subsequent to Petitioner's hearing request, the Department completed a new budget on [REDACTED] and discovered that it incorrectly imputed his Supplemental Security Income (SSI). This resulted in another increase of his FAP allotment to \$123 effective [REDACTED]. See Exhibit A, p. 1 (Hearing Summary). On [REDACTED], the Department testified that it sent Petitioner another Notice of Case Action notifying him that his FAP benefits increased to \$123 effective [REDACTED].

However, an issue arose during the hearing, as the Department failed to provide any FAP budgets for the benefit periods of September 2015 to October 2015. The Department did provide a budget for November 2015, which showed the increase of Petitioner's allotment to \$123. See Exhibit A, pp. 8-10. However, the Department recalculated and sent notice of the November 2015 increase on [REDACTED], which occurred after his hearing request. Therefore, the undersigned lacks the

jurisdiction to address Petitioner's November 2015 allotment. See BAM 600 (April 2015 and October 2015), pp. 1-6. Petitioner was notified that he could request another hearing to dispute his November 2015 FAP allotment. See BAM 600, pp. 1-6.

Nevertheless, Petitioner acknowledged during the hearing that he disputed his FAP decrease to \$78 effective [REDACTED]. See Exhibit A, pp. 2-3 (Petitioner's hearing request). But, the Department failed to provide any FAP budgets for September or October of 2015 showing how the Department calculated this decrease.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2015), p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHHS policy was appropriately applied. BAM 600, p. 38.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP benefits effective [REDACTED], ongoing. See BAM 600, pp. 35-37. The Department needs to establish how it calculated the FAP allotment. However, the Department failed to present sufficient evidence of how it calculated the reduction in benefits. Thus, the Department is ordered to recalculate 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 the Department failed to satisfy its burden of showing that it properly calculated and/or decreased Petitioner's FAP allotment effective [REDACTED], ongoing, in accordance with Department policy.

Accordingly, the Department's FAP 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. Recalculate Petitioner's FAP budget effective [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and

3. Notify Petitioner of its decision.



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

Date Signed: **12/3/2015**

Date Mailed: **12/3/2015**

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:

