

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018722
Issue No.: 3001
Agency Case No.:
Hearing Date: December 17, 2015
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on December 17, 2015, from Hamtramck, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by , specialist.

ISSUES

The first issue is whether MDHHS properly complied with an administrative order in redetermining Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly processed a change in Petitioner's utility obligations.

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 FAP benefit recipient.
2. On an unspecified date in July 2015, Petitioner reported to MDHHS an obligation for paying heat.
3. MDHHS issued in FAP benefits to Petitioner for July 2015.
4. Petitioner requested a hearing to dispute her FAP eligibility.
5. On August 25, 2015, Petitioner verified a heat obligation.

6. On September 11, 2015, a Hearing Decision ordered MDHHS to redetermine Petitioner's FAP eligibility for July 2015, subject to the following findings:
 - a. MDHHS properly excluded a heating/electric credit;
 - b. MDHHS under-budgeted Petitioner's employment income; and
 - c. It could not be determined if the [REDACTED] issuance was correct given presented evidence
7. On an unspecified date, MDHHS determined Petitioner was not entitled to a FAP supplement since July 2015.
8. On an unspecified date, MDHHS added a heat obligation to Petitioner's FAP eligibility for October 2015.
9. On an unspecified date, MDHHS issued [REDACTED] in FAP benefits to Petitioner for October 2015.
10. On September 28, 2015, Petitioner requested a hearing to dispute the following: a termination of FAP benefits beginning November 2015, an absence of FAP benefits for October 2015, FAP eligibility from July 2015, and an MDHHS failure to process a heat obligation.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FAP eligibility to be effective November 2015. Petitioner testified she had to reapply for FAP benefits and the issue was resolved. Petitioner also testified she no longer disputed the termination. Petitioner's testimony equated to a withdrawal of her hearing request. MDHHS did not object to the withdrawal of Petitioner's hearing request. Petitioner's hearing request will be dismissed concerning this issue.

Petitioner testimony alleged she did not receive FAP benefits for October 2015. MDHHS presented an Eligibility Summary (Exhibit 1 p.13). The summary listed Petitioner's FAP benefit issuance history. The document listed that Petitioner was "approved" for [REDACTED] in FAP benefits for October 2015 based on a certification date of September 15, 2015. Petitioner's only evidence to rebut the document was her testimony that she did not receive the benefits. Petitioner's testimony seemed credible enough, however, it was not as persuasive as documentation stating that Petitioner received [REDACTED] in FAP

benefits for October 2015. It is found that MDHHS properly issued FAP benefits to Petitioner for October 2015.

Petitioner requested a hearing primarily to dispute her FAP eligibility from July 2015. Petitioner's FAP eligibility from July 2015 was already addressed by an administrative hearing. MDHHS presented a Hearing Decision (Exhibits 7-12) dated September 11, 2015. The authoring administrative law judge ordered MDHHS to "recalculate the Claimant's budget and redetermine the Claimant's allotment."

MDHHS presented testimony that a recalculation was performed and no changes were made in Petitioner's budget factors or issuance amount. MDHHS presented a FAP-EDG Net Income Results (Exhibit 1 pp. 1-2) for July 2015. MDHHS also presented a Notice of Case Action (Exhibit 1 pp. 3-6) which included a budget summary. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

It was not disputed that Petitioner received [REDACTED] in earned income. MDHHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying a 20% deduction to the employment income creates a countable monthly employment income of [REDACTED] (rounding to lowest dollar).

It was not disputed that Petitioner received [REDACTED] in unearned income. Adding Petitioner's countable earned and unearned income results in a running countable income of \$ [REDACTED].

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. There was no evidence that any member of Petitioner's household was senior, disabled, or a disabled veteran.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Petitioner had no medical or child support expenses. It was not disputed that Petitioner had [REDACTED] in dependent care expenses. Petitioner's running countable income total is [REDACTED].

Petitioner's FAP benefit group receives a standard deduction of [REDACTED]. RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$ [REDACTED].

It was not disputed that Petitioner's housing costs were [REDACTED]/month. Petitioner's utility obligations were disputed.

MDHHS budgeted only a utility credit for telephone. Petitioner alleged she was responsible for heat which would entitle her to the maximum utility credit.

The issue of whether MDHHS should have affected Petitioner's FAP eligibility for July 2015 was already addressed in the decision from September 2015. The ALJ stated that Petitioner submitted a heat bill to MDHHS but the account name and number were blacked-out. The ALJ went on to state that the "Department properly disallowed using the expense when calculating shelter expenses." There is no jurisdiction to review the previous conclusion of the ALJ. Accordingly, Petitioner is not entitled to a review of the credited utilities concerning FAP eligibility for July 2015. Adding Petitioner's housing costs and telephone standard credit of \$ [REDACTED]0 (see BEM 255) results in a total shelter credit of \$ [REDACTED].

MDHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$0.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance is found to be [REDACTED], the same amount calculated by MDHHS.

Petitioner testimony indicated she disputed the effective month of a FAP benefit change concerning her utilities. Petitioner contended that MDHHS should have affected her FAP eligibility for August 2015. Petitioner conceded her FAP eligibility for October 2015 was affected (though she later claimed she did not receive any FAP benefits that month).

It was not disputed that Petitioner submitted to MDHHS on August 25, 2015, an acceptable verification of her heat obligation. It was not disputed that Petitioner previously reported to MDHHS an obligation for paying heat several weeks earlier (the reporting is presumed to have occurred in July 2015).

[For FAP benefits, MDHHS is to] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2015), p. 7. [For benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

MDHHS likely considered Petitioner's reporting and verification date to be August 25, 2015; this reporting date would justify affecting Petitioner's October 2015 FAP eligibility. Though Petitioner's first attempt at verifying her heat obligation was unsuccessful, her reporting date should not change. Thus, Petitioner's July 2015 reporting date is found to apply for Petitioner's eventual verification date of August 25, 2015. Based on Petitioner's late verification, her FAP eligibility should have been affected for September 2015, the month after she verified the heat obligation. Accordingly, MDHHS will be ordered to redetermine Petitioner's FAP eligibility only for September 2015.

DECISION AND ORDER


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her hearing request concerning a termination of FAP benefits beginning November 2015. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility for July 2015, August 2015, and October 2015. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility for September 2015. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility for September 2015, subject to the following findings:
 - a. Petitioner reported a heat obligation to MDHHS no later than July 31, 2015; and
 - b. Petitioner verified the heat obligation on August 25, 2015; and
- (2) supplement Petitioner for any FAP benefits improperly not issued.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **12/23/2015**

Date Mailed: **12/23/2015**

CG/tm

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:

