

**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.: 15-020567
Issue No.: 3001
Agency Case No.: [REDACTED]
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 [REDACTED], specialist, and [REDACTED], specialist (via telephone).

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 recipient whose benefit period was scheduled to end after September 2015.
2. Petitioner's household included Petitioner, Petitioner's daughter (Desiraye), and an unspecified third person.
3. On August 21, 2015, Petitioner's daughter (Desiraye) left Petitioner's household.
4. In September 2015, Petitioner submitted to MDHHS a document verifying a property tax obligation of [REDACTED].

5. In or before September 2015, Petitioner reported to MDHHS that her daughter left her household.
6. On September 16, 2015, MDHHS determined Petitioner's FAP eligibility, effective October 2015, in part, based on a household of 3 persons, Petitioner's daughter's employment income, \$0 housing costs, and no heating 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 to dispute her FAP eligibility since October 2015. MDHHS presented a Notice of Case Action (Exhibits 10-11) dated September 16, 2015 concerning Petitioner's FAP eligibility for October 2015. The notice included a budget summary of all FAP benefit factors. During the hearing, Petitioner was asked about each FAP budget factor. Petitioner raised disputes concerning group size, employment income, property taxes, and utilities.

MDHHS factored a FAP group size of three. Petitioner alleged her household only included two persons since her daughter moved from her household..

MDHHS presented Petitioner's Redetermination (Exhibits 1-6). Petitioner signed the Redetermination on August 23, 2015. It was not disputed that Petitioner reported to MDHHS, during an interview in early September 2015, that her daughter moved out of the household. MDHHS testimony expressed skepticism that Petitioner only reported her daughter moved out after Petitioner realized that her daughter's income would be counted in the FAP determination.

First, Petitioner had just listed her daughter as a household member on the Redetermination (see Exhibit 2). Petitioner did not indicate on the Redetermination that her daughter was leaving the household.

MDHHS presented a Worknumber report (Exhibits 8-9) for Petitioner's daughter. The report was printed on November 9, 2015, and listed an employee address matching Petitioner's household address.

MDHHS also noted that Petitioner did not list any income for her daughter on the Redetermination (see Exhibit 10). The failure by Petitioner to report income is indicative of misrepresentation.

In all, MDHHS presented very valid reasons for doubting Petitioner's reporting of her daughter's move. As it happened, Petitioner presented even stronger support that her daughter indeed moved-out in August 2015.

Petitioner testified that her daughter moved to Lansing to be closer to school. Petitioner presented a rental application (Exhibits A1-A2), indicating a move-in date of August 21, 2015 for Petitioner's daughter at a Lansing address. Petitioner presented a ledger of Petitioner's daughter's rental payments for the Lansing address (Exhibit A3). Petitioner also presented various payment receipts for the Lansing rental property. The documents all came from Petitioner's daughter's new landlord.

Though the Worknumber document did not indicate a change of address, it was not as compelling as Petitioner's documentation. It is possible that Petitioner's daughter had no need to update her address to her employer. It is possible that the Worknumber did not reflect an updated address. It is possible that Petitioner's daughter preferred to using her mother's address for purposes of employment information.

It is of no concern that Petitioner did not present supporting documents until the date of the hearing because MDHHS never asked for proof of the move. It is found that MDHHS wrongly factored a group size of three persons in determining Petitioner's FAP eligibility.

Petitioner also disputed the employment income counted by MDHHS. During the hearing, MDHHS verified that the proper amount of Petitioner's daughter's employment income was budgeted, however, that was before it was alleged that Petitioner's daughter moved from Petitioner's household. As a non-household member, Petitioner's daughter's income should be excluded.

MDHHS budgeted \$0 for Petitioner's shelter costs. Petitioner alleged she had property tax obligations.

[MDHHS is to] allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (October 2015) p. 12. Shelter expenses are allowed when billed. *Id.* The expenses do not have to be paid to be allowed. *Id.* Acceptable verification sources include, but are not limited to... [a] copy of tax, insurance, assessment bills ... *Id.*, p. 14.

MDHHS presented a property tax bill for Petitioner's address (Exhibit A18). The bill was for the summer of 2015 and indicated an obligation of \$719.12. MDHHS initially denied receiving the bill, though later testimony conceded the bill was received in time to affect Petitioner's FAP eligibility for October 2015.

Petitioner's annual tax obligation is likely higher though insufficient evidence was presented to indicate Petitioner reported or verified her spring 2015 tax obligation.

Petitioner can always submit her spring tax bill to MDHHS for consideration in future FAP eligibility.

It is found that MDHHS improperly excluded Petitioner's property taxes of \$ [REDACTED]. Petitioner's last FAP eligibility dispute concerned her utility obligations.

MDHHS testimony indicated Petitioner failed to submit proof of her heating costs with her Redetermination; the testimony was not disputed. Petitioner did not verify heat costs during the hearing.

[MDHHS is to] verify heating separate from housing costs at application, redetermination, or when a change is reported. *Id.*, p. 16. [One exception exists...] for groups that have verified that they own or are purchasing the home that they occupy, [MDHHS is to] verify the heat obligation only if questionable.


Petitioner verified she was the owner of her residence with her property tax bill. MDHHS presented no evidence to indicate Petitioner's reporting of a heat expense was questionable. Accordingly, MDHHS improperly excluded Petitioner's heat obligation.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. 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, effective October 2015, subject to the following findings:
 - a. Petitioner's daughter (Desiraye) is not a household member, effective August 21, 2015;
 - b. Petitioner has a property tax obligation of [REDACTED]
 - c. MDHHS has no need to question Petitioner's heat obligation because she is the residence owner; and
- (2) supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **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:

