

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-011123
Issue No.: 2000 3001
Case No.: ██████████
Hearing Date: August 13, 2015
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant'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. After due notice, a telephone hearing was held on August 13, 2015, from Detroit, Michigan. Participants included the above-named Claimant, ██████████, Claimant's daughter, testified on behalf of Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Claimant'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. On May 5, 2015, Claimant applied for FAP benefits.
2. Claimant was the only member of her FAP-benefit group.
3. Claimant's application did not list any medical or housing expenses.
4. On June 1, 2015, MDHHS determined Claimant to be eligible for ██████ in FAP for May 2015, and ██████/month, effective June 20, 2015, in part, based on \$0 in housing costs and \$0 in medical expenses.
5. On June 16, 2015, Claimant requested a hearing to dispute her FAP eligibility, effective May 2015, and an unspecified Medical Assistance (MA) determination.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a determination of MA eligibility. Claimant testified that MDHHS has since changed the determination and that she was satisfied with the change. Claimant further testified that a hearing was no longer needed concerning MA. Claimant's hearing request will be dismissed concerning this issue.

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).

Claimant requested a hearing, in part to dispute her FAP eligibility, effective May 2015. Claimant's basis for her dispute was a hope to receive more FAP benefits. A client's hope for additional FAP benefits is not a factor in determining whether MDHHS properly determined FAP eligibility.

The analysis will proceed to determine if MDHHS properly determined Claimant's FAP eligibility, effective May 2015. BEM 556 outlines how MDHHS is to calculate FAP eligibility. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS did not submit a FAP budget from May 2015 listing the amounts budgeted for income and expenses. Instead, MDHHS provided testimony of FAP benefit factors listed on a budget summary within a Notice of Case Action dated June 1. It was not disputed that Notice of Case Action related to Claimant's FAP eligibility for May 2015. The testimony was deemed to be a sufficiently reliable indicator of amounts used by MDHHS to determine Claimant's FAP eligibility.

MDHHS factored [REDACTED]/month in earned income. Claimant did not dispute the amount. 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] (dropping cents).

Claimant conceded that MDHHS properly factored an unearned income of [REDACTED]. Adding Claimant's earned and unearned income results in a total countable income of \$ [REDACTED].

DHHS 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, DHHS 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. For purposes of this decision, it will be presumed that Claimant is aged or disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant testimony conceded that she paid no day care or dependent care expenses. Claimant testified that she had medical expenses as of May 2015; however, the change in MA eligibility resulted in no further monthly expenses. For purposes of this decision, it will be presumed that Claimant had medical expenses as of May 2015.

Claimant testimony conceded that she did not list medical expenses on her application. Claimant did not allege reporting medical expenses to MDHHS at any point before requesting a hearing. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM105 (4/2015), p. 11.

By not reporting medical expenses to MDHHS, Claimant cannot blame MDHHS for not factoring medical expenses. Despite Claimant's failure to report medical expenses, MDHHS factored [REDACTED]/month in medical expenses. For purposes of this decision, the expenses will be counted. Countable medical expenses are subtracting from the group's income which results in a running countable income total of [REDACTED].

Claimant'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. The adjusted gross income amount is found to be \$ [REDACTED].

MDHHS factored no housing costs. Claimant testified that she pays [REDACTED] in rent. It was not disputed that Claimant did not list the expense on the application; Claimant again did not allege reporting the expense to MDHHS before requesting a hearing. It is found that MDHHS properly factored \$0 housing costs due to Claimant's failure to report the expense. It should be noted that Claimant was advised during the hearing that she can report the expenses to MDHHS to affect her future eligibility.

It was not disputed that Claimant's utility expense was [REDACTED]. Without housing or utility expenses, Claimant's shelter expense totals [REDACTED].

DHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be [REDACTED].

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant'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 Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be [REDACTED] (for a full month of benefits), the same amount calculated by DHHS. For a month in which Claimant applied for FAP on the 5th, Claimant's pro-rated FAP benefits are [REDACTED] the same amount calculated by MDHHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant no longer disputes her MA eligibility after a change in action by MDHHS. Claimant'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 Claimant's FAP eligibility as [REDACTED] effective May 2015, and [REDACTED] effective June 2015. The actions taken by DHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/14/2015**

Date Mailed: **8/14/2015**

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]