

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

IN THE MATTER OF:

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Reg. No.: 15-011356
Issue No.: 3001
Case No.: ██████████
Hearing Date: August 13, 2015
County: Macomb (20)

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. 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. Claimant was an ongoing FAP recipient.
2. Claimant was a member of a 3-person FAP benefit group which also included Claimant's husband and Claimant's daughter.
3. Claimant received ██████████ in monthly earned income and Claimant's daughter received ██████████ in earned income.
4. On June 16, 2015, MDHHS determined Claimant was eligible to receive ██████████/month in FAP benefits, effective July 2015, in part, based on a monthly earned income of ██████████ and a rental obligation of ██████████

5. On June 25, 2015, Claimant reported to MDHHS a rent increase to [REDACTED]/month.
6. On June 29, 2015, Claimant requested a hearing to dispute her FAP eligibility, effective July 2015.

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 Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute her FAP eligibility, effective July 2015. Claimant testified that she was particularly dissatisfied with a reduction in FAP eligibility from the previous month's issuance.

It should be noted that many clients have recently requested hearings to dispute FAP reductions. In many of these hearings, the client is perplexed by the reduction because it does not correspond to a notable change in the client's circumstances (e.g. increased income). Many of the FAP reductions can be explained by a change in MDHHS policy. Previous MDHHS policy gave maximum utility credits to all FAP recipients. Current MDHHS policy only credits clients for the utilities that a client is responsible to pay. This is one possible explanation for the FAP reduction in the present case.

FAP eligibility is determined independently from a previous month's issuance. Thus, it need not be determined why Claimant's FAP eligibility changed; it need only be determined whether it was properly calculated for July 2015. BEM 556 details the procedures in determining a client's FAP eligibility.

MDHHS presented a Notice of Case Action (Exhibits 1-2) which included a budget summary of all FAP benefit factors. During the hearing, all FAP benefit factors were discussed. Claimant raised disputes concerning the amount MDHHS budgeted for her earned income and rent.

Claimant testified that she and her daughter were employed. Claimant testified that she was uncertain how much monthly income she and her daughter received. The FAP budget summary verified that MDHHS factored [REDACTED] in total household monthly earned income. An Employment Budget-Summary (Exhibit 5) verified that MDHHS calculated Claimant's earned income to be [REDACTED] per month; Claimant did not allege the amount to be inaccurate.

MDHHS testimony indicated that Claimant's daughter's income was projected based on income received from June 2015. Claimant's daughter received [REDACTED] in gross wages on June 8, 2015 (see Exhibit 3). Claimant's daughter received [REDACTED] in gross wages on June 22, 2015. Claimant's daughter was paid every two weeks.

[MDHHS is] to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM (July 2014), p. 7. [MDHHS is to] multiply amounts received every two weeks by 2.15. *Id.*, p. 8.

Multiplying Claimant's average biweekly income by 2.15 results in a converted monthly income of [REDACTED] (dropping fraction of cents). MDHHS calculated Claimant's daughter's monthly income to be [REDACTED] (the difference between total earned income and Claimant's earned income). It is found that MDHHS improperly calculated Claimant's daughter's income.

Claimant also disputed the amount of rent budgeted by MDHHS. Claimant testified that her rent obligation increased to [REDACTED] beginning May 2015. Claimant testified that she reported the rent increase to MDHHS on June 25, 2015 via a Semi-Annual Contact Report. Presumably, Claimant expected MDHHS to affect her FAP eligibility beginning July 2015, or earlier.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (4/2015), p. 11. [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 non-income changes, [MDHHS is to] complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. *Id.* p.10. MDHHS provides two examples of their policy. A \$30 shelter increase reported on May 15th would increase the household's June allotment. *Id.* If the same increase were reported on May 28, the household's allotment would have to be increased by July. *Id.*

Claimant disputed a FAP eligibility notice dated June 16, 2015. As of the date of notice, Claimant hadn't even reported a rent increase to MDHHS. Thus, MDHHS was under no obligation to increase Claimant's FAP eligibility. If Claimant expected MDHHS to update her FAP eligibility as of June 29, 2015 (the date of Claimant's hearing request), Claimant was premature in her request because MDHHS had 10 days from June 25, 2015, to process Claimant's change. It is found that Claimant failed to establish that MDHHS erred in updating her rent obligation, as it related to Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Claimant's FAP eligibility, effective July 2015. It is ordered that MDHHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective July 2015, subject to the finding that Claimant's daughter's income was [REDACTED] and
- (2) initiate a supplement 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: **8/14/2015**

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

GC/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]