

**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.: 15-015390
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: October 19, 2015
County: WAYNE-DISTRICT 57

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 19, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist and [REDACTED], FIM.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance (FAP) Benefits for August 2015?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of Food Assistance (FAP). The Department provided a FAP budget for August 2015 which indicated that the Petitioner was approved for FAP monthly benefits of \$30. Exhibit A
2. The Petitioner was sent a shelter verification on [REDACTED] which was returned timely and demonstrated a new rent amount of \$151. The new rent was not included when calculating August, rent as the verification was returned in September 2015 and was not submitted in time to be included in the August FAP budget. Exhibit B
3. The Department testified, at the hearing, that the Petitioner receives RSDI and SSI in the amount of \$739.50 monthly. The Department used unearned income in the amount of \$760 when computing FAP benefits for August. The SOLQ provided by

the Department after the hearing reported that Petitioner received \$452 in RSDI and \$301 in SSI. Exhibits A and D

4. The Petitioner has a FAP group of one member. The Petitioner was credited with rent of \$130, an electric standard credit of \$124, and credit for a telephone standard of \$34, for a total shelter amount of \$288. Exhibit A
5. The Petitioner currently pays rent in the amount of \$151 (as of September 2015). The Petitioner verified that rent amount. The Department erred when it included rent of \$320 for August 2015, as testified to at the hearing, which amount was incorrect. The August budget submitted after the hearing, and admitted as Exhibit A, included the last verified rent of \$130 when calculating August 2015 FAP benefits. Exhibit A
6. The Department credited the Petitioner for \$50.95 in child support payments, which was included in the FAP budget for August 2015. The Petitioner testified that he pays \$15 monthly. The Department's Child Support Search provided to the undersigned after the hearing showed that Petitioner pays \$0.55. Exhibit C. At the hearing, the Department testified that the child support paid was \$0.55 and \$11.64 monthly.
7. The Petitioner provided the Department medical bills in September 2015 which were not included in the Petitioner's FAP budget for August, as they were just provided to the Department in September 2015. The medical prescriptions did not show what items were provided for the expense incurred.
8. The Petitioner requested a hearing on [REDACTED] protesting the amount of his food assistance.

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 Petitioner requested a hearing to determine if the Department correctly calculated the Petitioner's FAP benefits. The Department did not provide a FAP budget at the hearing, and the budget ultimately admitted as Exhibit A was reviewed at the hearing and faxed to the undersigned after the hearing. The undersigned allowed the Department to present a budget so that the Petitioner would receive a hearing where his request regarding whether his FAP benefits were correctly calculated would be addressed.

This Decision and Conclusions of Law is based upon the discrepancies in testimony by the Department and the evidentiary proofs provided at and after the hearing, the Department and Petitioner's testimony, and documents admitted at the hearing and provided by the Department after the hearing.

During the hearing, the Department provided current unearned income based upon an SOLQ. The SOLQ reported that the Petitioner received SSI in the amount of \$301, which was correct. Exhibit D. The SOLQ reported that Petitioner also received RSDA in the amount of \$452 as of April 2015 but the Department testified during the hearing that the SOLQ amount was \$438.50. The total income used by the Department in the August FAP budget was \$760, which it conceded was not correct. Exhibits A and D.

Based upon the SOLQ provided after the hearing by fax, the total unearned income reported on the SOLQ should be \$753. The Department also testified at the hearing that Petitioner's unearned income was \$301 and RSDI was \$438.50, for a total of \$739.50. This testimony, based upon the SOLQ provided by the Department to the undersigned after the hearing, is not supported by the SOLQ sent by the Department. Exhibit D. Based upon this evidence, Petitioner's unearned income as calculated by the FAP budget is incorrect, and thus the FAP budget must be recalculated and the income shown on the SOLQ must be included. Exhibit A and D.

The Department included child support payments of \$50.95 in the FAP budget which were not supported by the Child Support Search provided to the undersigned after the hearing. Exhibits A and C. The Department testified that the Child Support Search reviewed at the hearing demonstrated the Petitioner paid \$11.64 and \$0.55 for a total of \$12.55. This amount is not supported by the Child Support Search provided after the hearing by the Department, or the Petitioner's testimony that he pays \$15 monthly. Exhibit C. The Child Support Search shows only \$0.55 is paid.

Unfortunately, the Department's evidence and testimony presented at the hearing regarding child support is not supported by the evidence provided by the Department after the hearing, which was the Child Support Search. Exhibit C. Given this discrepancy, the Department is required to review the Child Support it testified to as \$12.19 and determine, after verification with the Petitioner, the correct child support paid by the Petitioner.

The Department should have included \$130 in rent for the August 2015 budget. The budget provided after the hearing via fax shows that the Department's August 2015 FAP budget included the correct rent. The Shelter allowance for telephone (\$34), and electricity (\$124) and rent of \$130 is correct. BEM 505 (July 1, 2015)

Because of the discrepancy in child support paid and unearned income, it is determined that the August 2015 FAP benefits as calculated are incorrect. The Department followed the correct FAP formula when calculating FAP benefits, however the amounts it input for items outlined herein are incorrect.

The Department properly did not include any medical expenses for August 2015 as no such expenses were received by the Department until [REDACTED]. Thus, the Department properly did not include any medical expenses.

Based upon the difference in unearned income, the discrepancy between the Department's testimony at the hearing, the SOLQ, and the child support amount discrepancy, the FAP budget for August 2015 as presented is incorrect and must be recalculated. Ultimately, the Department did not meet its burden of proof to demonstrate that it properly calculated the Petitioner's FAP benefits for August 2015.

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 acted in accordance with Department policy when it calculated the Petitioner's FAP benefits for August 2015.

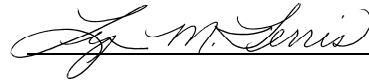
DECISION AND ORDER

Accordingly, the Department's 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. The Department shall recalculate the Petitioner's FAP benefits for August 2015 and shall correct and verify the discrepancies regarding child support paid by the Petitioner and the correct unearned income received by the Petitioner.
2. The Department shall provide the Petitioner a FAP supplement, if warranted, after recalculating the FAP benefits in accordance with Department policy.
3. The Petitioner shall be provided a written notice of the Department's recalculation of the FAP budget for August 2015.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/23/2015**

Date Mailed: **10/23/2015**

LMF / 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: Charles Kirkesy

