

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

MAHS Reg. No.: 15-015415
Issue No.: 2001 3001
Agency Case No.: ██████████
Hearing Date: October 21, 2015
County: Wayne (57)

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, a telephone hearing was held on October 21, 2015, from Detroit, Michigan. Participants included the above-named Petitioner. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist, and ██████████ supervisor.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility due to excess income.

The second issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility due to excess income.

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 and MA recipient.
2. Petitioner was a member of a 3-person FAP benefit group and a 2-person MA group.
3. Petitioner's FAP eligibility was scheduled to expire at the end of June 2015.
4. Petitioner received the following weekly gross employment pays in June 2015:
████████████████████.

5. On an unspecified date, MDHHS redetermined Petitioner to be ineligible for FAP benefits, effective July 2015, due to excess income.
6. On August 11, 2015, MDHHS determined Petitioner to be ineligible for MA benefits, effective September 2015, due to excess income.
7. On August 19, 2015, Petitioner requested a hearing disputing the terminations of FAP and MA benefits.

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, effective July 2015. MDHHS testimony indicated that Petitioner was determined to be income-ineligible for FAP benefits following a redetermination of benefits.

There was a dispute about FAP benefit group size. Petitioner initially testified that she bought and prepared food with four other persons in her home. MDHHS responded that Petitioner submitted a Redetermination dated June 2, 2015 which listed Petitioner as only buying and preparing food with a grandchild. Based on Petitioner's written statement, she is found to have a FAP group size of 2.

As it happened, MDHHS determined Petitioner's FAP eligibility based on a group size of 3. Presumably, MDHHS included Petitioner's husband whom Petitioner reported to MDHHS as living with her briefly in August 2015. For purposes of this decision, Petitioner's FAP group size will be found to be 3.

MDHHS presented a FAP budget (Exhibits 2-3). During the hearing, Petitioner was asked about each FAP budget factor. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS factored Petitioner's weekly pays from June 2015. MDHHS presented a Worknumber verification (Exhibit 1) listing Petitioner's gross payments. The Worknumber is a website that tracks employee pay information for participating employers. It was not disputed that Petitioner's June 2015 weekly pays were \$ [REDACTED]

MDDHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3. BEM 505 (7/2014), p. 6. Multiplying Petitioner's average weekly income by 4.3 results in a monthly income of \$2,895 (dropping cents).

Petitioner contended that MDHHS should have considered that she works at a temp agency and that her income is not guaranteed. It is appreciated that temp agency employment is generally less stable than other types of employment. MDHHS policy does not distinguish temp employment from other types of employment.

If Petitioner's employment had a certain end date (and it was reported to MDHHS), then Petitioner could reasonably contend that MDHHS should have factored the employment end date. There was no evidence that Petitioner's employment was scheduled to end. It is found that Petitioner's gross countable income is [REDACTED].

DHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of [REDACTED].

It was not disputed that Petitioner's group's unearned income was [REDACTED]. Adding Petitioner's employment and unearned income results in a total group 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. It was not disputed that Petitioner was 60 years old.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Petitioner's testimony conceded that she paid no day care or dependent care expenses. Petitioner alleged she had unspecified monthly medical expenses. MDHHS factored \$0 medical expenses for Petitioner.

During the hearing, MDHHS discovered that Petitioner reported no medical expenses on a Redetermination submitted by Petitioner on June 2, 2015. Petitioner conceded the discovery as accurate. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. If Petitioner did not report medical expenses, MDHHS cannot consider medical expenses. It is found that MDHHS properly did not factor medical expenses in Petitioner's FAP eligibility.

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. The adjusted gross income amount is found to be [REDACTED].

It was not disputed that Petitioner's monthly housing costs were \$650. MDHHS issued the heat/utility standard of [REDACTED] which is the maximum allowance for utility obligations (see RFT 255). Petitioner's total shelter costs are found to be [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 [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. 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 is over-income for FAP benefits. It is found that MDHHS properly terminated Petitioner's FAP eligibility.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of MA benefits. Petitioner alleged the termination began July 2015; Petitioner provided no supporting evidence for her claim. MDHHS presented a Health Care Coverage Determination Notice (Exhibits 4-5) dated August 11, 2015. The notice stated that Petitioner's MA eligibility stopped beginning September 2015, due to excess income. The notice is deemed to reflect the correct begin date for Petitioner's MA ineligibility.

It was not disputed that Petitioner's basis for MA benefits was based on MAGI (i.e. family-related) criteria. MDHHS credibly testified that Petitioner's June 2015 pays were factored in determining Petitioner's MA eligibility.

Prospecting income means arriving at a best estimate of the person's income. BEM 530 (January 2014), p. 3. Prospect income when you are estimating income to be received in a processing or future month. *Id.*

Based on presented stubs, Petitioner's average weekly gross income is [REDACTED]. Multiplying Petitioner's weekly average income by 52 weeks results in an annual income of [REDACTED]. MDDHS calculated Petitioner's income to be [REDACTED] (see Exhibit 4), a slightly higher amount. For purposes of this decision, the smaller and more Petitioner-favorable annual income will be accepted as accurate.

Petitioner's MA group size was not disputed to be 2-person. Petitioner is a non-pregnant individual aged between 19 and 65 years.

MAGI income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. A 2-person MAGI group annual income limit for a non-pregnant individual aged between 19 and 65 years is [REDACTED]. Petitioner's annual income [REDACTED] exceeds the MAGI-related income limits. Accordingly, it is found that MDHHS properly terminated Petitioner's MA eligibility due to excess income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility, effective July 2015, and Petitioner's MA eligibility, effective September 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

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

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

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]