

**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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MAHS Reg. No.: 15-015973
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: October 26, 2015
County: Wayne-District 31

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 26, 2015, from Detroit, Michigan. Petitioner appeared for the hearing with her social worker, ██████████ and represented herself. The Department was represented by ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

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 recipient of FAP benefits.
2. Effective June 1, 2015, Petitioner was approved for FAP benefits in the amount of \$16 monthly.
3. On September 1, 2015, Petitioner requested a hearing disputing the Department's calculation of her FAP benefits.

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Petitioner requested a hearing disputing the Department's calculation of her FAP benefits in the amount of \$16. At the hearing, the Department stated that Petitioner's FAP budget was reviewed and it determined that she was eligible for \$45 for the period of June 1, 2015, ongoing. The Department presented evidence that it issued FAP supplements to Petitioner of \$29 monthly for the period of June 1, 2015, ongoing. (Exhibit A, pp. 23-26). The Department provided the FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly corrected and calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 20-22).

All countable earned and unearned income available to the client must be considered in determining the a client's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-33. The Social Security Administration (SSA) also issues the state funded benefit for SSI recipients in personal care living arrangements. The amount of SSI Payments (SSP) for individuals in personal care living arrangements (\$██████ is counted as unearned income. BEM 660 (July 2013), pp. 1-2; BEM 503, pp.31-33; see RFT 248 (January 2015), p.2.

The Department concluded that Petitioner had unearned income of ██████ which came from ██████ in SSI benefits and ██████ in SSP benefits. Petitioner confirmed her monthly unearned income amount and the Department presented a SOLQ in support of its case. (Exhibit A, pp. 16-18). Therefore, the Department properly calculated Petitioner's gross unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that she had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on her confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Petitioner's excess shelter deduction of \$240, the budget shows that the Department properly considered Petitioner's confirmed monthly rent of \$450, the \$124 non-heat electric standard and the \$34 telephone standard. The Department stated that Petitioner was not eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available for FAP groups that are responsible for cooling (including room air conditioners), if they verify they have the responsibility to pay for non-heat electric. BEM 554, pp. 16-19; RFT 255, p. 1. At the hearing, Petitioner testified that she is responsible for cooling costs, as she has an in room air conditioner. The Department stated that Petitioner was provided with the non-heat electric standard and that her in room air conditioner is included in that expense. However, a review of the excess shelter deduction budget and the Department policy referenced above shows that the Department failed to properly calculate Petitioner's excess shelter deduction, as she is entitled to the \$553 mandatory heat and utility (h/u) standard based on her payment of cooling costs, which the Department failed to consider, as the Department had verification of Petitioner's responsibility to pay non-heat electric. (Exhibit A, p. 19); BEM 556, pp. 4-5.

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 because of the errors in the calculation of Petitioner's excess shelter deduction, the Department did not act in accordance with Department policy when it calculated Petitioner's FAP benefits.

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. Recalculate Petitioner's FAP budget for June 1, 2015, ongoing;
2. Issue FAP supplements to Petitioner from June 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/30/2015**

Date Mailed: **10/30/2015**

ZB / tlf

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]
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