

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016108
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: November 4, 2015
County: Wayne (19)

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 November 4, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner'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. Petitioner was an ongoing Medical Assistance (MA) and FAP benefit recipient.
2. On an unspecified date, MDHHS terminated Petitioner's MA and FAP eligibility, effective September 2015.
3. Petitioner was the only member of a FAP benefit group.
4. Petitioner had monthly unearned income of [REDACTED].
5. Petitioner did not report a heat obligation to MDHHS.

6. On August 28, 2015, Petitioner requested a hearing to dispute her FAP and MA eligibility for September 2015.
7. On an unspecified date following August 28, 2015, MDHHS redetermined Petitioner's MA eligibility
8. On an unspecified date following August 28, 2015, MDHHS redetermined Petitioner's FAP eligibility to be [REDACTED] effective September 2015, in part, based on [REDACTED]/month in unearned income, [REDACTED] month in rent, and a telephone obligation.

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

Petitioner requested a hearing, in part, to dispute MA eligibility. It was not disputed that MDHHS terminated Petitioner's MA eligibility, effective September 2015. Petitioner testimony conceded that MDHHS subsequently reinstated her MA eligibility. Petitioner's testimony amounted to a withdrawal of her hearing request as she had no ongoing dispute concerning MA benefits. Petitioner's hearing request will be dismissed concerning MA eligibility.

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 also requested a hearing to dispute FAP eligibility, effective September 2015. MDHHS conceded that an initial termination of benefits was improper. Following Petitioner's hearing request, MDHHS redetermined Petitioner's FAP eligibility, effective September 2015, and issued [REDACTED] in FAP benefits; Petitioner contended she was entitled to a higher amount of FAP benefits. Thus, a dispute remains concerning

Petitioner's FAP eligibility for September 2015. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS budgeted [REDACTED] in monthly unearned income. Petitioner conceded the amount to be correct.

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 disabled.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Petitioner had no more than [REDACTED] in countable medical expenses. Petitioner's testimony conceded no monthly expenses for child support or dependent care.

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. Petitioner's FAP group's adjusted gross income is found to be [REDACTED]

It was not disputed that Petitioner's rental obligation was [REDACTED] month. Petitioner's utility obligation was disputed.

MDHHS credited Petitioner with only a telephone obligation of [REDACTED] (see RFT 255). Petitioner contended that she is responsible for a heat obligation since moving into a new residence in August 2015.

[MDHHS is to] verify heating separate from housing costs at application, redetermination, or when a change is reported. BEM 554 (October 2014), p. 16. Petitioner testimony conceded MDHHS requested proof of her utility obligation. Petitioner testimony further conceded that she did not return verification of her heat expense obligation. Petitioner can still receive credit for paying heat in her future FAP eligibility by verifying her obligation. For purposes of Petitioner's FAP eligibility for September 2015, it is found that MDHHS properly credited Petitioner for only paying a telephone expense; thus, Petitioner's total housing costs are [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] (rounding up to nearest dollar).

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's proper FAP benefit issuance is found to be [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 MDHHS properly determined Petitioner's FAP eligibility to be [REDACTED], 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: **11/5/2015**

Date Mailed: **11/5/2015**

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:

