

**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.: 15-016391
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: October 28, 2015
County: Wayne (15) Greystone

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 28, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly reduce the 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. The Petitioner was an ongoing recipient of FAP benefits.
2. The Department issued a Notice of Case Action dated July 13, 2015, which approved the Petitioner for FAP benefits of \$ [REDACTED]. The Department used unearned income of \$ [REDACTED] and a group size of 5 and included rent of \$ [REDACTED]. Exhibit B and Exhibit F.
3. The Department issued a Notice of Case Action dated August 4, 2015, approving the Petitioner for \$ [REDACTED] in FAP benefits. The group size was 4. The gross unearned income was \$ [REDACTED]. This amount also included a onetime contribution of \$ [REDACTED] received by the Petitioner from her daughter in July 2015.

and appropriately reported to the Department by the Petitioner. No rent was included for August 2015. Exhibit D.

4. The Petitioner receives \$ [REDACTED] in unearned income monthly from Supplemental Security Income (SSI) and a quarterly supplement for a total of \$ [REDACTED]
5. The Department issued a Notice of Case Action dated May 14, 2015, decreasing the Petitioner's FAP benefit to \$ [REDACTED] which reduced the group size effective June 1, 2015, and removed the Petitioner's daughter from the FAP group. Exhibit A.
6. The Department had two case numbers for Petitioner.
7. The Petitioner requested a timely hearing on September 2, 2015, protesting the Department's actions.

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 Department continually adjusted the Petitioner's FAP benefits; and the Petitioner requested a hearing regarding the FAP allotments she received for July and August 2015. The Department conceded the following facts at the hearing. The Petitioner's group size for both July and August 2015 was 4 members. The Petitioner's income from SSI was \$ [REDACTED] and the state quarterly supplement was \$ [REDACTED] for a total unearned income of \$ [REDACTED]. The Department conceded that because the Department had two cases open, the Department overlooked the timely receipt of verifications and rent.

A review of both FAP budgets for July 2015 and August 2015 was made and both budgets were found to be incorrect after review in the following respects.

July 2015 FAP budget

The FAP budget for July improperly calculated the FAP group income and group size. The budget also included the correct amount for rent in the amount of \$ [REDACTED]. The income and group size used by the Department was incorrect. Thus, the July budget

must be recalculated. The Department improperly used a FAP group size of 5 instead of 4 members when calculating July 2015 benefits even though the Petitioner's daughter had been removed from the FAP group as of June 2015 based upon a prior Notice of case action dated May 14, 2015. Exhibit A. Thus, the group size used for the July 2015 FAP group was incorrect and requires that the July FAP budget be recalculated. Exhibit F. The Department also included the incorrect unearned income as the Petitioner's income and quarterly supplement should have been \$ [REDACTED]. The Department erroneously included the removed daughter's income incorrectly in the FAP group total because the Petitioner's daughter had been previously removed from the FAP group. Exhibit B. The Petitioner emailed the Department a copy of the lease in August because the Department said it did not receive it and that she had provided the lease document prior to August. This testimony was consistent with the fact that the Department included rent of \$ [REDACTED] for July 2015, which the Department did not dispute as incorrect for July 2015. (See also Department Hearing Summary.)

August 2015 FAP budget

The FAP budget for August 2015 was reviewed at the hearing; and it was determined that the Department used the correct group size of 4 and did not include rent of \$ [REDACTED] which was incorrect. The obvious lack of attention to detail is apparent as the Department included a shelter allowance of \$ [REDACTED] but no rent. The Petitioner credibly testified that she reported a contribution of unexpected income in the amount of \$ [REDACTED] which she received from her daughter in a timely manner and credibly testified that she informed her caseworker at that time that she did not expect or could not anticipate further receipt of this contribution from her daughter. This income was reported by Petitioner in July and thus, was properly included in the August 2015 budget. This testimony is found credible and was not rebutted by the Department. The Department properly included the \$ [REDACTED] payment in the August 2015 FAP budget but **cannot** include this income as ongoing. The Petitioner's testimony was found credible as to the reporting of the income and that it would not be ongoing.

Based upon the foregoing evidence and testimony, it is determined that the Department incorrectly determined the Petitioner's FAP benefits for July and August 2015 and must recalculate the FAP benefits for these months.

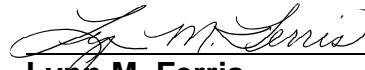
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to include \$ [REDACTED] rent in the August 2015 budget and incorrectly calculated income for July 2015, because the incorrect group size of 5 was used and a non-group member's income; the Petitioner's daughter's income was included when it should not have been. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not include rent for August because it was not timely reported and verified by the Petitioner.

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 budget for July 2015 and shall include the unearned correct income of \$ [REDACTED] and group size of 4.
2. The Department shall recalculate the Petitioner's FAP budget for August 2015 and shall include rent of \$ [REDACTED]
3. The Department shall issue a FAP supplement to the Petitioner if otherwise eligible in accordance with Department policy.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/4/2015**

LMF/jaf

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:

