

**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.: 15-016396
Issue No.: 3000; 3001
Agency Case No.: [REDACTED]
Hearing Date: October 29, 2015
County: MACOMB-DISTRICT 36

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 29, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits effective September 1, 2015, ongoing?

Did the Department properly issue Petitioner's FAP benefits for the benefit period [REDACTED]?

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. On [REDACTED], Petitioner was issued \$511 in FAP benefits for the benefit period of [REDACTED]. See Exhibit B, p. 1.
3. On [REDACTED], the Department indicated that it spoke to Petitioner over the phone in which she reported that her income had ended and that her live-in boyfriend (hereinafter referred to as "additional group member") income had started. See Exhibit A, p. 1. (Hearing Summary).

4. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL), which requested verification of missing check stubs. See Exhibit A, p. 4. The VCL was due back by [REDACTED]. See Exhibit A, p. 4.
5. On [REDACTED], Petitioner submitted verification of the additional group member's income. See Exhibit A, pp. 2-3.
6. Upon receipt of the additional group member's income, the Department reviewed Petitioner's eligibility for FAP benefits.
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, due to the gross income exceeding the limits and failure to comply with the verification requirements. See Exhibit A, pp. 6-7. It should be noted that the Department acknowledged that the verification denial is not at issue and the denial is based on the gross income exceeding the limits.
8. On [REDACTED], Petitioner verbally requested a hearing, disputing the Department's action. See Exhibit A, p. 19.

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.

Preliminary matter

As a preliminary matter, on [REDACTED], the Department sent Petitioner a Notice of Overissuance (OI) informing her of a FAP OI for the period of [REDACTED], in the amount of \$1,531 based on client error. See Exhibit B, p. 2. Petitioner argued that she has complied with the Department. However, the undersigned lacks the jurisdiction to address Petitioner's dispute with the OI as it occurred subsequent to her hearing request. See BAM 600 (April 2015), pp. 1-6; BAM 715 (July 2014), p. 11 (Hearing requested for overissuances regarding active and inactive cases); and BAM 725 (July 2014), pp. 16-17 (Debt Collection Hearings). In fact, the undersigned discovered that Petitioner submitted another hearing request to

dispute the OI (Reg. No. [REDACTED]); however, the Debt Collection Hearing has yet to be scheduled. Petitioner did confirm that she did request a hearing to dispute the OI. As such, the undersigned lacks the jurisdiction in this matter to discuss the OI and Petitioner will be able to address this issue at her later scheduled hearing date.

FAP allotment – August 2015

During the hearing, Petitioner argued that she did not receive her FAP issuance for the benefit period of [REDACTED]. However, a review of Petitioner's Benefit Summary Inquiry shows that she was issued \$511 in FAP benefits for the benefit period of [REDACTED]. See Exhibit B, p. 1. As such, the evidence established that Petitioner was issued FAP benefits for the benefit period of [REDACTED], in accordance with Department policy. BAM 400 (July 2014), pp. 1-7 (Issuance of FAP program benefits) and BAM 401E (July 2014), pp. 1-19 (Electronic Benefit Transfer Issuance System).

FAP closure

On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would close effective [REDACTED], ongoing, due to the gross income exceeding the limits and failure to comply with the verification requirements. See Exhibit A, pp. 6-7. It should be noted that the Department acknowledged that the verification denial is not at issue and the denial is based on the gross income exceeding the limits.

It was not disputed that Petitioner's group size was three. The Department calculated the FAP group's gross monthly income to be \$4,257, which Petitioner did not dispute. See Exhibit A, p. 16.

A non-categorically eligible, non-senior/disabled/disabled veteran (SDV) FAP group must have income below the gross and net income limits. BEM 550 (July 2015), p. 1. The FAP monthly gross income (130%) limit for a group size of three is \$2,144. See RFT 250 (October 2014), p. 1.

The Department argued that the FAP group's gross income of \$4,257 exceeded the monthly gross income limit of \$2,144. Therefore, the Department closed Petitioner's FAP benefits effective [REDACTED], ongoing, due to the gross income exceeding the limits. Petitioner did not dispute the Department's action and/or FAP closure. As such, the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED], ongoing, due to the gross income exceeding the limits. See BEM 550, p. 1 and RFT 250, p. 1.

DECISION AND ORDER

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 (i) the Department acted in accordance with Department policy when it closed Petitioner's FAP benefits effective [REDACTED]; (ii) the Department properly issued Petitioner's FAP benefits for the benefit period of [REDACTED], in accordance with Department policy; and (iii) the undersigned lacks the jurisdiction to address Petitioner's dispute with the overissuance notice dated [REDACTED].

Accordingly, the Department's FAP decision is **AFFIRMED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

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

EF / 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:

A large black rectangular redaction box covers the names and email addresses listed in the CC field.