

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

IN THE MATTER OF:

██████████	MAHS Reg. No.:	15-016694
██████████████████	Issue No.:	3001
██████	Agency Case No.:	██████████
██████████████████████████████	Hearing Date:	November 04, 2015
	County:	Macomb-District 12

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 and ██████████, her husband, represented themselves. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case due to excess net 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, her husband and their three children were ongoing recipients of FAP benefits.
2. No one in the household is over age ████, disabled, or a disabled veteran.
3. In connection with a semi-annual contact report Petitioner submitted to the Department on August 19, 2015 (Exhibit B), the Department recalculated Petitioner's FAP eligibility.
4. On August 20, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FAP case was closing effective September 1, 2015 because her net income exceeded the applicable limit for FAP eligibility (Exhibit A).

5. On September 10, 2015, Petitioner filed a request for hearing disputing 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.

The Department closed Petitioner's FAP case effective September 1, 2015 after it concluded that her household's net income exceeded the net income limit for FAP eligibility. In order to be eligible for FAP benefits, a FAP group's net income must not exceed the applicable net income limit for FAP eligibility for the group size. BEM 550 (July 2015), p. 1. Petitioner, who lives with her husband and their three minor children, has a FAP group size of five. See BEM 212 (July 2014), p. 1. Based on a group size of five, the net income limit for FAP eligibility is \$2326. RFT 250 (October 2014), p. 1.

In determining net income, the Department takes the FAP group's gross monthly income and reduces it by allowable deductions. Initially, in determining gross monthly income, the Department used \$2034 as the household's gross monthly earned income and \$1556 as the household's gross monthly unearned income. The Department explained that it used \$2034 as earned gross monthly income because Petitioner reported in her semi-annual contact report that there had not been more than a \$100 change in the previously reported gross monthly earned income of \$2034, which was the amount the Department had used in calculating her FAP budget. The \$1556 was unemployment income received by Petitioner's husband. Petitioner reported in the semi-annual contact report that her husband received monthly unemployment benefits totaling \$1448. Because unemployment income is paid biweekly, and the Department must multiply biweekly income by 2.15 in determining gross monthly income, the Department acted in accordance with Department policy when it budgeted \$1556 for the household's gross monthly unearned income. See BEM 505 (July 2015), pp. 7-8. Based on \$2034 in gross monthly earned income, as reported in the semi-annual contact report, and \$1556 in gross monthly unearned income, Petitioner's household had \$3590 in total gross monthly income.

Because Petitioner's FAP group had no senior/disabled/veteran (SDV) members and had earned income, the household was eligible for the following deductions:

- Earned income deduction equal to 20% of the group's earned income.
- Dependent care expense.
- A standard deduction based on the FAP group size.
- Court-ordered child support and arrearages paid to non-household members.
- Excess shelter deduction, based on monthly shelter expenses and the applicable utility standard.

BEM 554 (May 2014), p. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (October 2014), p. 1.

Petitioner and her husband confirmed they had no child support or day care expenses. Based on a five-person FAP group, the group was eligible for a \$192 standard deduction. RFT 255, p. 1. The applicable earned income deduction based on earned gross monthly income of \$2034 is \$407, which is 20% of \$2034. Petitioner and her husband, who confirmed monthly housing expenses of \$644 and received the \$553 heat and utility standard, the most beneficial utility standard available to a client, were not eligible for an excess shelter deduction. See BEM 554, p. 16; RFT 255, p. 1; BEM 556, pp. 4-5.

When Petitioner's monthly gross income of \$3590 is reduced by the \$192 standard deduction and the \$407 earned income deduction, her net income is \$2991. Because \$2991 exceeds the applicable \$2326 net income limit, the Department acted in accordance with Department policy when it concluded that Petitioner was no longer eligible for FAP benefits.

At the hearing, the Department testified that, because Petitioner indicated in her hearing request that she no longer worked at one of her places of employment and a review of the semi-annual contact report showed that she had reduced hours at another place of employment, it recalculated Petitioner's FAP eligibility when it received the request for hearing. The Department had been budgeting Petitioner's earned income from three sources: [REDACTED], [REDACTED] and [REDACTED]. Petitioner testified that at the time she submitted the semi-annual, she was employed at all three places. However, she reported in the semi-annual that her hours at [REDACTED] had been reduced from two days weekly to one day weekly. At the hearing, she explained that she had lost her employment with [REDACTED] after she had filed the semi-annual report. Because Petitioner did not report her loss of employment with [REDACTED] until September 10, 2015, after her FAP case had closed, the Department properly did not exclude that income at the time it processed the semi-annual contact report and determined Petitioner was no longer income eligible for FAP.

At the hearing, Petitioner's husband explained that he stopped receiving unemployment benefits on October 29, 2015. Because of this change in the household's financial circumstances, Petitioner and her husband were strongly advised to reapply for FAP benefits.

Based on the evidence available to the Department at the time it issued the August 20, 2015 Notice of Case Action and prior to the September 1, 2015 closure of Petitioner's FAP case, the Administrative Law Judge finds that the Department acted in accordance with Department policy when it closed Petitioner's FAP case due to excess net income.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/10/2015**

Date Mailed: **11/10/2015**

ACE / 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]