

**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.: 15-016870  
Issue No.: 3008  
Agency Case No.: [REDACTED]  
Hearing Date: November 04, 2015  
County: Wayne (57) Conner

**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 November 6, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager; and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly calculate and 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 FAP recipient.
2. On July 8, 2015, the Department issued a Notice of Case Action reducing the Petitioner's FAP benefits to \$ [REDACTED] effective August 1, 2015. At the time, a semiannual review had been completed; and the Petitioner reported a rent decrease from \$ [REDACTED] to \$ [REDACTED] and that she had electricity and a phone but did not pay for heat. Exhibit F.
3. The Petitioner filed a change report on August 18, 2015, advising the Department that her rent had decreased and provided a verification from her father who she pays rent to.

4. The Petitioner's FAP group consisted of one person. The Petitioner is disabled and receives Supplemental Security Income (SSI) in the amount of \$ [REDACTED] and Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED] for a total amount of \$ [REDACTED] and receives a \$ [REDACTED] monthly supplement from the State of Michigan. The Petitioner's total unearned income is \$ [REDACTED] Exhibit A.
5. The Petitioner requested a timely hearing on September 9, 2015, protesting the reduction 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.

In this case, the Department reduced the Petitioner's FAP benefits when she reported a change in rent from \$ [REDACTED] to \$ [REDACTED] and that she no longer paid for heating expenses. The FAP benefits were reduced from \$ [REDACTED] per month to \$ [REDACTED] per month.

All countable earned and unearned income available to the Petitioner must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. 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. 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$ [REDACTED] and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$ [REDACTED]) as unearned income. BEM 503, p.33; see RFT 248 (January 2015), p. 1.

The Department concluded that Petitioner had unearned income of \$ [REDACTED] which it testified came from \$ [REDACTED] in SSI, and RSDI and \$ [REDACTED] in SSP benefits for Petitioner. The Department did present a State Online Query (SOLQ) in support of its testimony, and Petitioner confirmed that Petitioner receives these amounts; and they were correct. Therefore, the Department properly calculated Petitioner's gross income.

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of her FAP group and is a senior/disabled/veteran (SDV) member of the 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 dependent care, child support, or medical expenses over \$ [REDACTED]. The Petitioner was specifically asked if she paid Medicare Part B premiums, and it was determined she did not. 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 \$ [REDACTED] standard deduction. RFT 255 (October 2014), p. 1.

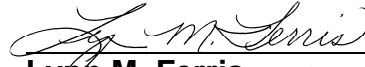
At the hearing, the two FAP budgets were provided and reviewed. As explained at the hearing, because the Petitioner's rent was reduced by one half and she no longer paid for heating, her housing expenses were greatly reduced; and thus, she qualified for less food assistance. Prior to the reduction, the Petitioner had housing expenses of \$ [REDACTED] rent of \$ [REDACTED] and a heat allowance of \$ [REDACTED]. After the FAP decrease, the Petitioner had housing expenses of \$ [REDACTED] based upon rent of \$ [REDACTED] and a phone allowance of \$ [REDACTED]. Because her income remained the same but her housing expenses were so reduced, there was no excess shelter expenses that could be deducted to reduce Petitioner's income. Exhibits B, C, D and E. The most significant change was the fact that Petitioner lost the standard heat and utility allowance expense of \$ [REDACTED] because she no longer paid for heat.

In calculating Petitioner's excess shelter deduction, the Department considered Petitioner's \$ [REDACTED] monthly rental/housing expenses; and because the Petitioner does not pay for heat or electricity, the Petitioner is not eligible for the \$ [REDACTED] heat and utility (h/u) standard in calculating the excess shelter deduction. See BEM 554, (October 2014), p. 16-19. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$ [REDACTED] because her total housing expenses of \$ [REDACTED] were less than half of the adjusted gross income. (\$ [REDACTED] - \$ [REDACTED] = -\$ [REDACTED]). Exhibit C. BEM 556, pp. 4-5; RFT 255, p. 1. Exhibit 3. Previously due to higher housing expenses, the Petitioner received an excess shelter deduction of \$ [REDACTED]. Exhibit D.

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 acted in accordance with Department policy when it reduced the Petitioner's FAP benefits due to changes in her rent and that she no longer paid for heat.

**DECISION AND ORDER**

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



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Mailed: **11/9/2015**

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:

