

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016871
Issue No.: 3000 3001
Agency Case No.: [REDACTED]
Hearing Date: November 4, 2015
County: Wayne (57)

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] manager.

ISSUE

The first issue is whether Petitioner timely requested a hearing to dispute FAP eligibility from February 2015.

The second issue is whether MDHHS properly determined Petitioner's current 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 FAP benefit recipient.
2. Petitioner was the only member of his FAP benefit group.
3. Petitioner received [REDACTED] in monthly income from the Social Security Administration.
4. On an unspecified date in February 2015, Petitioner reported to MDHHS that his rent increased to [REDACTED] effective June 2015.

5. Following a request for verification, Petitioner mailed to MDHHS a rent receipt verifying an ongoing [REDACTED]/month income.
6. On January 7, 2015, MDHHS determined Petitioner to be eligible for [REDACTED] in FAP benefits, effective February 2015, in part, based on [REDACTED] month in unearned income and a [REDACTED]/month rent obligation.
7. On September 8, 2015, Petitioner requested a hearing to dispute his FAP eligibility from February 2015.

CONCLUSIONS OF LAW

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 requested a hearing on September 8, 2015, to dispute a FAP determination from February 2015. Prior to a substantive analysis of Petitioner's dispute, a procedural issue must first be addressed.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (4/2015), p. 6 The request must be received in the local office within the 90 days. *Id.*

MDHHS presented a Notice of Case Action (Exhibits 1-3); the notice verified MDHHS sent written notice of Petitioner's February 2015 FAP eligibility on January 7, 2015. Petitioner testimony indicated he received written notice of his February 2015 FAP eligibility in February 2015. Either way, Petitioner's hearing request was submitted to MDHHS long past the 90 day deadline to dispute February 2015 FAP eligibility.

One notable exception to the 90 day deadline exists for hearing requests disputing FAP eligibility. The client or AHR may request a hearing disputing the current level of benefits at any time within the benefit period. *Id.*, p. 6. Thus, Petitioner may dispute his current FAP eligibility. "Current level of benefits" is interpreted to mean current as of the date of the hearing request. Thus, Petitioner may dispute his FAP eligibility for September 2015, the month he submitted his hearing request. BEM 556 provides guidance on how FAP benefits are calculated.

MDHHS presented a FAP budget for October 2015 (Exhibits 4-6). It is presumed that Petitioner's October 2015 eligibility mirrors his September 2015 FAP eligibility. During the hearing, Petitioner was asked about each FAP eligibility factor.

MDHHS budgeted \$767 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. Petitioner's testimony conceded no obligation for child support or dependent care.

Petitioner testified he had had [REDACTED]/month in medical expenses. MDHHS did not credit Petitioner for payment of medical expenses. MDHHS only factors medical expenses after [REDACTED]. Thus, MDHHS properly did not credit Petitioner with a credit for medical expenses.

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. The adjusted gross income amount is found to be [REDACTED].

MDHHS budgeted [REDACTED] in housing costs. Petitioner testified he has paid [REDACTED] in housing costs since June 2015. Petitioner testified he reported the increase to MDHHS back in February 2015.

[MDHHS is to] verify shelter expenses at application and when a change is reported. BEM 554 (October 2014), p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. *Id.*

Petitioner testimony conceded that MDHHS requested verification of his housing expense after he reported the rent increase. Petitioner testimony further conceded he responded by submitting to MDHHS a rent receipt of [REDACTED]. Petitioner testified that he could not submit a rent receipt of [REDACTED] because he was not paying that much at the time MDHHS requested the information. Petitioner also indicated his landlord was not cooperative in providing documentation verifying his rent increase. It is found that

Petitioner failed to verify his rent increase. MDHHS could have removed the entire rental amount from Petitioner's FAP budget. For purposes of this decision, it will be found that MDHHS properly budgeted [REDACTED] in rent, as this is a more favorable outcome for Petitioner.

MDHHS credited Petitioner [REDACTED] for a telephone obligation (see RFT 255). Petitioner testimony conceded his rent included all utilities. Petitioner's total shelter costs are found to be [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 \$0.

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 Petitioner failed to timely request a hearing to dispute FAP eligibility from February 2015 through August 2015. Petitioner's hearing request is **PARTIALLY DISMISSED**.

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: **11/4/2015**

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:

