

**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.: 15-017167
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 9, 2015
County: MACOMB-DISTRICT 20

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 November 9, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective September 1, 2015?

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 is an ongoing recipient of FAP benefits. See Exhibit C, pp. 4-6.
2. Effective July 2015 to August 2015, Petitioner received a monthly FAP allotment of \$357. See Exhibit C, pp. 4-5.
3. Effective [REDACTED], Petitioner's FAP benefits decreased to \$177. See Exhibit C, pp. 4-5.
4. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 28-31.

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 matters

First, Petitioner appeared to dispute her FAP allotment for June 2015 in which she received \$93. See Exhibit C, p. 5. However, the Department presented Petitioner's Maintain Restore Benefits document, which showed that she previously requested a hearing on June 18, 2015, disputing her June 2015 allotment. See Exhibit C, p. 7. However, the evidence also showed that she withdrew her hearing request on July 23, 2015. See Exhibit C, p. 7. As such, the undersigned will not address Petitioner's dispute with her June 2015 allotment. See BAM 600 (April 2015), pp. 27-29 (Withdrawals).

Second, Petitioner also appeared to dispute her FAP allotment for July 2015 and/or August 2015, indicating that she only received \$16. This was due probably to the Notice of Case Action dated [REDACTED], informing Petitioner that her benefits decreased to \$16 effective [REDACTED]. See Exhibit A, pp. 1-4. However, the evidence established that Petitioner received a monthly allotment of \$357 for July 2015 to August 2015. See Exhibit C, pp. 4-6 (supplement for July 2015). Petitioner's benefits decreased to \$177 effective [REDACTED], which the undersigned will address below.

Third, the Department began to recoup benefits from Petitioner's FAP allotment effective [REDACTED]. See Exhibit C, p. 5. Petitioner can file another hearing request if she disputes her recoupment. See BAM 600 (October 2015), pp. 1-6.

FAP allotment

It was not disputed that the certified group size is two and that there are no senior/disabled/disabled veteran (SDV) member(s). The Department presented the September 2015 FAP budget for review. See Exhibit C, pp. 1-2.

First, the Department calculated Petitioner's gross earned income to be \$715, which she did not dispute. See Exhibit A, pp. 6-7 (The Work Number verification); Exhibit C, p. 1; and BEM 505 (July 2015), pp. 1-14.

Then, the Department calculated Petitioner's unearned income (child support) to be \$671, which Petitioner disputed. See Exhibit C, p. 1.

The Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3. Include the current month if all payments expected for the month have been received. BEM 505, p. 3. The Department does not include amounts that are unusual and not expected to continue. BEM 505, p. 3.

If payments for the past three months vary, discuss the payment pattern from the past with the client. BEM 505, p. 4. Clarify whether the pattern is expected to continue, or if there are known changes. BEM 505, p. 4. If the irregular pattern is expected to continue, then use the average of these three months. BEM 505, p. 4. If there are known changes that will affect the amount of the payments for the future, then do not use the past three months to project. BEM 505, p. 4. Document the discussion with the client and how you decided on the amount to budget. BEM 505, p. 4.

If the past three months' child support is not a good indicator of future payments, calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 4.

Court-ordered direct support means child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU). BEM 503 (July 2015), p. 8. The Department counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503, p. 8.

Certified support means court-ordered payments the MiSDU sends to MDHHS due to a child's receipt of assistance. BEM 503, p. 6. For FAP cases, the Department excludes collections retained by MDHHS (certified support) and court-ordered support payments the group receives after the child support certification effective date. BEM 503, p. 7.

Based on the foregoing information and evidence, the Department properly calculated Petitioner's child support income to be \$671 in accordance with Department policy, which comprised of the following past three calendar months: \$577.38 for June 2015; \$782.66 for July 2015; and \$654.75 for August 2015. See Exhibit A, pp. 8-9; BEM 503, pp. 6-8 and BEM 505, pp. 3-4.

The Department then applied the 20 percent earned income deduction. BEM 550 (July 2015), p. 1. Twenty percent of \$715 is \$143, which results in a post earned income of \$1,243. See Exhibit C, p. 1. Next, the Department applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (October 2014), p. 1. It should be

noted that because Petitioner and her group member are not SDV members, they are not eligible for the medical expense deduction. See BEM 554 (October 2014), p. 1. Once the Department subtracts the \$154 standard deduction, this results in an adjusted gross income of \$1,089. See Exhibit C, p. 1.

Also, the FAP – Excess Shelter Deduction budget indicated that Petitioner’s monthly housing expense is \$795, which she did not dispute. See Exhibit A, p. 10 and Exhibit C, p. 3. The Department also provided Petitioner with the \$553 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client’s monthly utility expenses exceed the \$553 amount. See Exhibit C, p. 3; BEM 554, pp. 14-15; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner’s housing expenses to the utility credit; this amount is found to be \$1,348. See Exhibit C, p. 3. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,089 adjusted gross income. Fifty percent of the adjusted gross income is \$544. See Exhibit C, p. 3. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$804. See Exhibit C, p. 3. However, again, when no group members are SDV members, Petitioner is only allowed the maximum excess shelter deduction amount of \$490. See BEM 554, p. 1 and RFT 255, p. 1.

The Department then subtracts the \$1,089 adjusted gross income from the \$490 excess shelter deduction, which results in a net income of \$599. See Exhibit C, pp. 1-2. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner’s group size and net income, the Department properly determined that Petitioner’s FAP benefit issuance is found to be \$177 effective [REDACTED] RFT 260 (October 2014), p. 8.

Effective [REDACTED], it should be noted that the mandatory h/u standard decreased to \$539 and the maximum shelter deduction increased to \$504. See RFT 255 (October 2015), 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 the Department acted in accordance with Department policy when it properly calculated Petitioner’s FAP allotment effective [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: **11/10/2015**

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

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:

