

**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.: 15-017679
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: November 18, 2015
County: Macomb (12) Mt Clemens

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 18, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits for September 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. The Petitioner was an ongoing FAP recipient and was receiving \$ [REDACTED] monthly. In September 2015, Petitioner received \$ [REDACTED] in FAP benefits, and in October 2015 received \$ [REDACTED] ongoing.
2. The Petitioner stopped working on [REDACTED], but did not report the stopping of employment until [REDACTED]. Exhibit C.
3. The Petitioner completed a Semi-Annual Contact Report received by the Department on July 29, 2015. In the report, the Petitioner was advised that \$ [REDACTED] in household income was used in calculating her FAP budget; Petitioner answered "No" when asked if anything had changed. Exhibit A.

4. The Petitioner filed a State Emergency Relief (SER) application in May 28, 2015, due to receiving a utility shut-off notice and provided a letter to the Department from her employer, the [REDACTED], dated [REDACTED], and received [REDACTED], which did not indicate she was no longer employed. Exhibit B.
5. The Department issued a Notice of Case Action on August 3, 2015, which reduced the Petitioner's FAP benefits to \$ [REDACTED] effective September 1, 2015. The Petitioner's rent was removed, but the earned income was included. Exhibit F.
6. The Department issued a Notice of Case Action on September 14, 2015, increasing the Petitioner's FAP benefits to \$ [REDACTED]. The FAP benefit calculation included no rent and no earned income. Exhibit G.

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, after the completion of the Semi-Annual Report by the Petitioner, the Department reduced the Petitioner's FAP benefits to \$ [REDACTED]. The Department sent the Petitioner a Notice of Case Action on August 3, 2015, which reduced the Petitioner's FAP benefits to \$ [REDACTED] effective September 1, 2015. The Petitioner's rent was removed based upon the Petitioner reporting she no longer paid rent, but the earned income of \$ [REDACTED] was included. Exhibits D and F. A review of both the notice sent to the Petitioner and the FAP budget reviewed at the hearing for September 2015 indicate that the Department continued to include earned income of \$ [REDACTED] based upon the Petitioner's response on the recently completed Semi-Annual Report. Exhibit A.

The Semi-Annual Report specifically advised the Petitioner in the section regarding Household Income: "The household's monthly gross earned income (before taxes used in your food assistance budget is \$ [REDACTED]. The Petitioner answered "No" to the following questions regarding earned income: Has your household's gross earned income (including earnings from self-employment changed by more than \$ [REDACTED] from the above amount? And, Has anyone had a change in earnings (including earnings from self-employment) because they changed, started or stopped a job?" Thus, based upon these responses, the Department included earned income of \$ [REDACTED] for the September

budget but no longer included rent. The removal of rent from the FAP budget in September 2015 caused the Petitioner's income to be reduced by less shelter expense; thus, the budget reflected more net income in the amount of \$ [REDACTED] Exhibit D. The Department is entitled to rely on information provided by the Petitioner and did so in this case. There was no discrepancy regarding earned income; thus, the Department was not required to verify the information. BAM 130 (October 1, 2015).

Thereafter, on August 31, 2015, the Petitioner for the first time advised the Department that she was no longer employed and provided a letter from her former employer. Exhibit C. Although the letter indicated that the Petitioner had not been employed since [REDACTED], this was the first notice the Department had that the Petitioner's employment had ended. The Petitioner believed an earlier letter provided to the Department from her employer in May 2015 had advised that she was no longer working, but it did not. The Department did an exhaustive search through the Petitioner's electronic data file and found no letter advising the Department that employment had ended prior to the letter she provided on August 31, 2015. Exhibit B. The Department reduced the FAP benefits for September 2015, because income was included based upon the Semi-Annual Report; but rent was no longer included.

Clients are required to report changes of employment and income within 10 days:

Responsibility to Report Changes

FIP, SDA, RCA, MA and FAP

This section applies to all groups **except** most FAP groups with earnings; see BAM 200, **Food Assistance Simplified Reporting**.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change.

Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.
 - Change in rate of pay.
 - Change in work hours of more than five hours per week that is expected BAM 105, p. (July 1, 2015)10-11

After receiving the Petitioner's former employer's letter on August 31, 2015, the Department removed the income and recalculated the benefits for October 2015. The Petitioner disputed that the change went into effect in October rather than September 2015. Department policy provides:

FAP Only

Act on a change reported by means other than a tape match within 10 days of becoming aware of the change.

Benefit Increases: Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. A supplemental issuance may be necessary in some cases. If necessary verification is **not** returned by the due date, take appropriate action based on what type of verification was requested. If verification is returned late, the increase must affect the month after verification is returned.

Example: Rich reports on March 23rd that he now has a shelter expense. Act on the change by April 2nd. May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Affect the April issuance if the action can be completed by March 31st. BAM 220 (October 1, 2015) p. 7

BEM 505 also provides with regard to income decreases:

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. BEM 505 (July 1, 2015), p. 10

Based upon the provisions found in both BAM 220 and BEM 505, the Department correctly issued a FAP increase for October 2015 as the change was reported August 31, 2015, and 10 days after the change reporting was September 9, 2015; thus, the first allotment would be October 2015.

The Petitioner provided the Department notice of her employment ending August 31, 2015; and thus, the Department correctly made the increase in FAP benefits effective for October 1, 2015, based upon BAM 220.

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 for September 2015.

DECISION AND ORDER

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



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

Date Mailed: **11/19/2015**

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:

