

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018491
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: November 25, 2015
County: Wayne (41) Fort Wayne

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 25, 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 Liaison.

ISSUE

Did the Department properly deny the Petitioner's Food Assistance Program (FAP) application due to excess 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. The Petitioner applied for FAP benefits on August 18, 2015. At the time of the application, the Petitioner was no longer employed and received Retirement, Survivors and Disability Insurance (RSDI). Exhibit E.
2. The Petitioner was not interviewed at the time of the application by the caseworker assigned.
3. The Petitioner resigned his employment on July 31, 2015, and provided a letter to the Department, which he signed advising that he resigned prior to the FAP application denial. The resignation letter was provided to the Department on September 9, 2015, prior to the Verification due date of July 14, 2015. The Department did not make any further inquiry of the Petitioner about his resignation. Exhibit B.

4. On September 14, 2015, the Department issued a Notice of Case Action denying the FAP application as of August 18, 2015, due to Petitioner's net income exceeds net income limit. Exhibit A. The Department included both earned income of \$ [REDACTED] and RSDI of \$ [REDACTED] when determining FAP eligibility. Exhibit D.
5. The Petitioner paid rent in the amount of \$ [REDACTED] paid electricity and for a phone at the time of application. The Department properly calculated the excess shelter amount with total shelter amount of \$ [REDACTED] Exhibit F.
6. The Department sent a Verification Checklist on September 2, 2015, requesting proof of earnings and loss of employment and did not include a DHS-38 for loss of employment. The verification information was due September 14, 2015. The Petitioner provided paystubs to the Department on September 9, 2015, with his letter of resignation. Exhibit G.
7. The Petitioner received RSDI in the amount of \$ [REDACTED] Petitioner paid a Medicaid Part B premium of \$ [REDACTED] at the time of the FAP application, which was not included in the FAP budget. Exhibit E.
8. At the time of the application, the Petitioner was 65 years old and receiving RSDI and was deferred from employment-related activities associated required to receive FAP benefits.
9. The Petitioner requested a timely hearing on September 24, 2015, protesting 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.

In this case, the Department denied the Petitioner's FAP application due to exceeding the net income limit. Exhibit A. The Department included earned income of \$ [REDACTED] received and reported by Petitioner for July 2015 when determining FAP eligibility. The income was included by the Department even though the Petitioner indicated on the August 18, 2015, application that he was not employed. The Petitioner provided as part of the verifications a letter on [REDACTED] stationery, which he signed for his employer indicating he quit his employment on July 31, 2015. Thus Petitioner was not

employed in August, which was the application month. Exhibit B. The letter was provided prior to the denial of the FAP application. Based upon this information, the income for July should not have been included when determining eligibility. BEM 505 (July 1, 2015), p 5. In addition, the Department omitted the Petitioner's Medicaid Part B premium from the FAP budget when determining eligibility.

The Petitioner's letter of resignation was on [REDACTED] stationery and signed by the Petitioner as it was a letter advising the employer that he was voluntarily resigning. The Department sent a verification Checklist to Petitioner that requested proof of loss of employment but did not include a DHS-38 to be completed by the employer with the verification. The resignation letter indicates that Petitioner resigned, not lost his employment. In addition, the Department denied the application on the same date as the verifications were due.

In this case, it is determined that the Department did not clearly communicate what it wanted so that Petitioner could understand. The Department has an obligation to assist applicants for benefits and explain the requirements to be eligible. In addition, BAM 105 provides that it part of the local office responsibility to:

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. BAM 105, (July 1, 2015) p. 13

In this case, the Department's request was unclear and should have explained that the letter of resignation was inadequate if it believed so, and advise the Petitioner to ask the employer to confirm the resignation. The Department should have provided a form DHS-38 with the request for verification. The Department could also have called the employer and made collateral contact. Department policy requires that it must tell the client what verification is required and how to obtain it. BAM 130 (July 1, 2015) p. 1. If the Department's request for information had been more clear regarding what it wanted so the Petitioner could have completed the verification, the July earned income would not have been included when determining Petitioner's eligibility for FAP benefits as he was not employed in August, the application month. The Petitioner's employment status was clear from the beginning as he indicated his unemployed status on the FAP application. See also stopping income BEM 505 (July 1, 2015) p. 7.

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 did not act in accordance with Department policy when it denied the Petitioner's FAP application due to excess income.

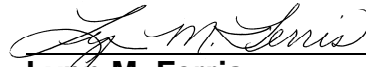
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re register and re process the Petitioner's FAP application of August 18, 2015, and determine eligibility.
2. The Department shall provide the Petitioner written notice of its eligibility determination.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **12/2/2015**

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:

