

**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.: 15-019460
Issue No.: 3004; 3007; 3008
Agency Case No.: [REDACTED]
Hearing Date: December 3, 2015
County: WAYNE-DISTRICT 18

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 December 3, 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.

ISSUES

Did the Department fail to process Petitioner's alleged Food Assistance Program (FAP) applications submitted in June 2015 and/or July 2015?

Did the Department properly issue Petitioner's FAP benefits effective [REDACTED], ongoing?

Did the Department properly calculate Petitioner's FAP allotment effective [REDACTED]

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's search application screen and electronic case file did not show any FAP applications submitted in June or July of 2015. See Exhibit B, pp. 1-2.
2. On [REDACTED], Petitioner applied for FAP benefits. See Exhibit B, pp. 1-2.

3. Petitioner's daughter receives \$1,333 in monthly Retirement, Survivors and Disability Insurance (RSDI) income. See Exhibit A, pp. 12-14.
4. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FAP benefits as follows: (i) \$26 for [REDACTED]; (ii) \$162 for [REDACTED] and \$167 for [REDACTED]. See Exhibit A, pp. 15-18.
5. Petitioner's Benefit Summary Inquiry showed that the Department properly issued her benefits effective [REDACTED], ongoing. See Exhibit B, p. 3.
6. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 1-2.

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 argued that she submitted FAP applications in June 2015 and/or July 2015. Thus, Petitioner is arguing that the Department failed to process her FAP applications. As part of the evidence record, the Department presented Petitioner's search application screen and electronic case file that did not show any FAP applications submitted in June or July of 2015. See Exhibit B, pp. 1-2. Based on the foregoing information and evidence, the undersigned finds that Petitioner did not submit any FAP application in June 2015 and/or July 2015; thus, the Department did not fail to process any application during this time period. See BAM 110 (July 2014 and July 2015), pp. 1-23 (Application filing and registration) and BAM 115 (January 2015 and July 2015), pp. 1-35 (Application processing).

Second, Petitioner also argued that she did not receive her issuance of FAP benefits on her Bridge card for August 2015. However, the Department presented Petitioner's Benefit Summary Inquiry, which showed that the Department properly issued her benefits effective [REDACTED], ongoing. See Exhibit B, p. 3. Based on the

foregoing information and evidence, the undersigned finds that the Department properly issued Petitioner's FAP benefits for the period of [REDACTED], ongoing. BAM 400 (July 2014 and October 2015), pp. 1-7 (Issuance of program benefits) and BAM 401E (July 2014), pp. 1-19 (Electronic benefit transfer issuance system).

FAP benefits

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 August 2015 FAP budget for review. See Exhibit A, pp. 9-10.

First, the Department calculated Petitioner's gross unearned income to be \$1,291, which consisted of the daughter's RSDI income. See Exhibit A, p. 9. However, it was discovered the Department improperly budgeted the unearned income. Instead, the daughter's gross unearned income should have been \$1,333, which Petitioner did not dispute. See Exhibit A, pp. 12-14. As such, the Department improperly calculated the gross unearned income and the Department will recalculate this amount in accordance with Department policy. See BEM 503 (July 2015), p. 29 (the Department counts the gross benefit amount for RSDI as unearned income).

Second, the Department properly applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (October 2014), p. 1.

Third, policy states that for groups with one or more SDV members, the Department allows medical expense (a deduction) that exceeds \$35. See BEM 554 (October 2014), p. 1. However, neither Petitioner nor her daughter is an SDV member. Therefore, they are not entitled to the medical expense deduction.

Fourth, the Department presented Petitioner's FAP – Excess Shelter Deduction budget (shelter budget) that indicated her monthly housing expense is \$600, which she did not dispute. See Exhibit A, p. 11. 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 A, p. 11; BEM 554, pp. 14-15; and RFT 255, p. 1. It should be noted if the client is eligible for the \$553 mandatory h/u, that is the entire amount client is eligible for. If she is not eligible for the mandatory h/u, she gets the sum of the other utility standards that apply to her case. BEM 554, pp. 15 and 20.

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 (i) Petitioner did not submit any FAP applications in June 2015 and/or July 2015; (ii) the Department properly issued Petitioner's FAP benefits for the period of [REDACTED], ongoing; and (iii) the Department did not acted in accordance with Department policy when it improperly calculated her FAP benefits effective [REDACTED], ongoing.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to alleged FAP applications in June and/or July of 2015 and issuance of program benefits and **REVERSED IN PART** with respect to the FAP calculation effective [REDACTED], ongoing.

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. Recalculate the FAP budget for [REDACTED], ongoing;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its FAP decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/4/2015**

Date Mailed: **12/4/2015**

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:

