

**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.: 15-019618  
Issue No.: 3008; 5000  
Agency Case No.: [REDACTED]  
Hearing Date: December 9, 2015  
County: MACOMB-DISTRICT 12

**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 9, 2015, from Detroit, Michigan. The Petitioner was represented by Catina Hemphill (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 March 11, 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. On or around [REDACTED], Petitioner applied for FAP benefits. See Exhibit A, p. 12.
2. The Department failed to send Petitioner any eligibility decision in response to her FAP application (i.e., Notice of Case Action).
3. Petitioner has been receiving \$16 in monthly FAP benefits, other than her prorated amount for the application month of March 2015 and a supplement in the amount of \$145 for October 2015. See Exhibit A, p. 18-22.
4. The Department acknowledges that it erroneously calculated her FAP allotment from the date of application.

5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

### **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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

#### **Preliminary matter**

On [REDACTED], Petitioner also requested a hearing in which she disputed her SER denial. See Exhibit A, pp. 2-3. On [REDACTED], Petitioner applied for SER assistance. See Exhibit A, pp. 23-38. On [REDACTED], the Department sent Petitioner an SER Decision Notice notifying her that non-heat electricity and rent to prevent eviction request was denied. See Exhibit, A p. 45.

Shortly after commencement of the hearing, Petitioner indicated that she was no longer disputing the SER denial and she understood the actions the Department took. As such, Petitioner's SER hearing request is DISMISSED.

#### **FAP allotment**

On or around [REDACTED], Petitioner applied for FAP benefits. See Exhibit A, p. 12. The Department indicated that it failed to send Petitioner any eligibility decision in response to her FAP application (i.e., Notice of Case Action).

Additionally, Petitioner has been receiving \$16 in monthly FAP benefits, other than her prorated amount for the application month of March 2015 and a supplement in the amount of \$145 for October 2015. See Exhibit A, p. 18-22.

During the hearing, the Department acknowledges that it erroneously calculated her FAP allotment from the date of application and that it would recalculate the benefits from [REDACTED], ongoing.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it improperly calculated Petitioner's FAP benefits effective March 11, 2015. First, the Department failed to send Petitioner any eligibility decision in response to her FAP application (i.e., Notice of Case Action). BAM 115 (January 2015), pp. 23-24 (eligibility decisions). Second, the Department acknowledges that it erroneously calculated Petitioner's FAP allotment from the date of application. As such, the Department is ordered to recalculate Petitioner's FAP benefits from [REDACTED], ongoing.

It should be noted that during the hearing it appeared that Petitioner disputed her FAP benefits from January 2015. However, during the hearing, Petitioner did not dispute the Department's acknowledgment that it would recalculate Petitioner's benefits from the application date of [REDACTED]. Furthermore, the undersigned lacks the jurisdiction to address Petitioner's dispute with her FAP allotment for January and February of 2015. See BAM 600 (January 2015; April 2015; and October 2015), pp. 1-6.

### **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 did not act in accordance with Department policy when it improperly calculated Petitioner's FAP benefits effective [REDACTED].

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

**IT IS ALSO ORDERED** that Petitioner's **SER** hearing request (dated [REDACTED])

is **DISMISSED**.



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

Date Signed: **12/9/2015**

Date Mailed: **12/9/2015**

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:

