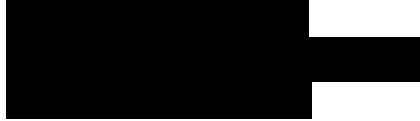


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-020869
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 4, 2016
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 January 4, 2016, 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 in the amount of \$116 effective November 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.
2. Prior to Petitioner's October 2015 redetermination, the Department only budgeted his Supplemental Security Income (SSI) of \$111 and his \$14 monthly average in State SSI Payments (SSP) (\$42 issued quarterly), which resulted in a total gross income of \$125. See Exhibit A, p. 8.
3. In October 2015, Petitioner's redetermination was completed and his income was updated as follows: \$642 in Retirement, Survivors and Disability Insurance (RSDI); \$111 in SSI income; and \$14 monthly average in SSP income. See Exhibit A, pp. 5 and 11-13. This resulted in Petitioner's gross income increasing to \$767, which also led to his decrease in his FAP allotment. See Exhibit A, p. 5.

4. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were approved for \$116 effective [REDACTED] to [REDACTED]. See Exhibit A, pp. 14-16.
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.

It was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented the November 2015 FAP budget for review. See Exhibit A, pp. 5-6.

First, the Department calculated Petitioner's gross unearned income to be \$767. See Exhibit A, p. 5. This amount consisted of the following: (i) \$642 in RSDI; \$111 in SSI income; and \$14 monthly average in SSP income. See Exhibit A, pp. 5 and 11-13 and see BEM 503 (October 2015), pp. 28-33. The undersigned finds that the Department properly calculated Petitioner's unearned income in accordance with Department policy. See BEM 503, pp. 28-33.

Next, the Department applied the \$154 standard deduction applicable to Petitioner's group size of one. RFT 255 (October 2015), p. 1. Petitioner also did not dispute that the dependent care, medical, and child support deductions were calculated as zero. See Exhibit A, p. 5. Once the Department subtracts the \$154 standard deduction, this results in an adjusted gross income of \$613. See Exhibit A, p. 5.

Also, the FAP – Excess Shelter Deduction budget indicated that Petitioner's monthly housing expense is \$120, which he did not dispute. See Exhibit A, p. 7. The Department also provided Petitioner with the \$539 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 \$539 amount. See Exhibit A, p. 7; BEM 554 (October 2015), 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 \$659. See Exhibit A, p. 7. Then, the Department subtracts the total shelter amount from fifty percent of the \$613 adjusted gross income. Fifty percent of the adjusted gross income is \$306. See Exhibit A, p. 7. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$353. See Exhibit A, p. 7.

The Department then subtracts the \$613 adjusted gross income from the \$353 excess shelter deduction, which results in a net income of \$260. See Exhibit A, pp. 5-6. 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 \$116 effective [REDACTED]. RFT 260 (October 2015), p. 4.

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 in the amount of \$116 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: **1/5/2016**

Date Mailed: **1/5/2016**

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:

