

**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.: 15-020909
Issue No.: 3001 6001
Agency Case No.: [REDACTED]
Hearing Date: January 4, 2016
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The second issue is whether MDHHS properly denied Petitioner's Child Development and Care (CDC) application.

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 was an ongoing FAP recipient.
2. Petitioner was a member of a four-person household.
3. On October 6, 2015, Petitioner applied for CDC benefits.
4. Petitioner's gross household income was [REDACTED] for purposes of FAP eligibility and [REDACTED] for purposes of CDC eligibility.

5. On October 26, 2015, MDHHS terminated Petitioner's FAP eligibility, effective December 2015, due to excess income.
6. On October 26, 2015, MDHHS denied Petitioner's CDC eligibility, effective December 2015, due to excess income.
7. On November 4, 2015, Petitioner requested a hearing to dispute the termination of FAP eligibility and the denial of CDC eligibility.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of FAP eligibility, effective December 2015. MDHHS presented a Notice of Case Action (Exhibit 1 pp. 1-3) indicating the basis for termination was excess income. The only way to determine if the termination was proper is by undergoing a full budget analysis.

MDHHS presented FAP budget documents (Exhibit 1 pp. 4-6) which listed all FAP benefit budget factors. During the hearing, all FAP budget factors were discussed with Petitioner. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS budgeted [REDACTED] in monthly unearned income. Petitioner testified she thought the amount to be incorrect. Petitioner testified she made approximately [REDACTED] every two weeks and her spouse received [REDACTED] in weekly "take-home pay." Based on Petitioner's testimony, a 4-week period of household income would be [REDACTED], much more than the amount budgeted by MDHHS. For purposes of this decision, the lesser and more Petitioner-favorable income amount of [REDACTED] will be accepted as an accurate amount of Petitioner's household's monthly income.

MDHHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying a 20% deduction to the employment income creates a countable monthly employment income of [REDACTED] (dropping cents).

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old),

disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It is presumed that no person in Petitioner's group was an SDV member.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Petitioner had no such expenses. Petitioner's testimony indicated she now has day care expenses, though she conceded that she did not report such expenses to MDHHS at the time of the determination in dispute. If Petitioner did not report the expenses to MDHHS, MDHHS cannot be expected to factor them. Thus, MDHHS properly did not factor day care expenses.

Petitioner's FAP benefit group receives a standard deduction of [REDACTED]. RFT 255 (October 2015), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be [REDACTED].

MDHHS budgeted [REDACTED] for Petitioner's monthly housing costs. Petitioner's testimony alleged her monthly rent was increased to [REDACTED] in 2015. It was uncertain if Petitioner reported the change. During the hearing, MDHHS was asked to check Petitioner's most recently submitted redetermination documentation so it could be learned what amount Petitioner reported to be her rent. Based on Petitioner's FAP certification period which began in July 2015 (see Exhibit 1 p. 4), MDHHS should have received redetermination documents from Petitioner near June 2015. MDHHS was unable to locate any redetermination documents. Due to MDHHS' inability to refute Petitioner's testimony, it will be accepted that MDHHS should have factored a [REDACTED] monthly rent cost.

Though MDHHS erred in budgeting Petitioner's rent, the error might not be enough to render Petitioner to be eligible for FAP benefits. The analysis will continue so it may be determined if the rental amount makes any ultimate difference in Petitioner's FAP eligibility.

MDHHS issued a heating/utility standard of [REDACTED], which is the maximum allowance for utility obligations (see RFT 255). Claimant's total shelter costs are found to be [REDACTED].

MDHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$0.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is found to be \$0, the same amount calculated by MDHHS. It is found that MDHHS properly terminated Petitioner's FAP eligibility.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. MDHHS administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a denial of CDC eligibility. MDHHS presented a Notice of Case Action (Exhibit 1; pp. 1-3) dated October 26, 2015. The notice stated Petitioner's eligibility was denied due to excess income.

If the program group does not qualify for one of the categorically eligible groups, [MDHHS is to] determine eligibility for the income-eligible group. BEM 703 (October 2015), p. 14. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group; see program group definition in BEM 205. *Id.* At application, the program group's gross income must not exceed 95% of the income eligibility scale in RFT 270. *Id.*

It is presumed that Petitioner was not categorically eligible for CDC benefits. To do so, she would have to qualify based on foster care children, protective services involvement, or Family Independence Program eligibility (see *Id.*, p. 13). Thus Petitioner can only be CDC income-eligible by meeting the standards of RFT 270.

MDHHS determined Petitioner's income to be \$ [REDACTED] for purposes of CDC eligibility. It is not known why MDHHS used a lower income amount for CDC eligibility than FAP eligibility, however, Petitioner's testimony only indicated her income was higher. The amount of [REDACTED] will be accepted as Petitioner's income for purposes of CDC eligibility as it was the most Petitioner-favorable income amount presented.

Petitioner conceded she was not eligible to receive 95% of her CDC obligations. Instead, Petitioner contended she should be eligible to receive 80% of her CDC payments. Petitioner's testimony was consistent with the chart in RFT 270. Ultimately, the contention was not persuasive because of the distinction MDHHS makes between income-eligibility at application and ongoing eligibility.

RFT 270 goes on to explain that the higher income levels sub-95% pay percentages are only for persons receiving ongoing CDC benefits. As noted above, clients applying for CDC benefits must meet the 95% pay percentage income limit. The 95% pay percentage income limit for Petitioner's group size of 4 persons is [REDACTED] (see RFT 270 (July 2015), p. 1). It was not disputed that Petitioner's income exceeded the income limit for initial CDC eligibility. Accordingly, it is found that MDHHS properly denied Petitioner's CDC application.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility, effective December 2015. It is further found that MDHHS properly denied Petitioner CDC application dated October 6, 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **1/5/2016**

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

CG/tm

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:

