

**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.: 15-020911
Issue No.: 3004
Agency Case No.: [REDACTED]
Hearing Date: January 04, 2016
County: WAYNE-DISTRICT 57
(CONNER)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly process Petitioner's shelter expenses in calculating her monthly Food Assistance Program (FAP) benefits?

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. In connection with a semi-annual contact report, the Department recalculated Petitioner's FAP benefits, using \$0 in shelter expenses.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action informing her that effective [REDACTED], she was approved for ongoing monthly FAP benefits of \$55.

4. On [REDACTED], Petitioner submitted a shelter verification form showing that she paid \$500 in monthly rent, which included all heat, electricity and water expenses.
5. On [REDACTED], Petitioner filed a request for hearing disputing the Department's failure to process her documentation.

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.

Petitioner requested a hearing contesting the Department's failure to process the documentation she submitted on [REDACTED]. At the hearing, the Department acknowledged that on [REDACTED], it received from Petitioner a shelter verification completed by her landlord showing that she paid \$500 in monthly rent and that her rent included heat, electricity and water.

Verified shelter expenses are considered in calculating a client's FAP eligibility and allotment. BEM 554 (October 2014), pp. 12, 14; BEM 556 (July 2013), pp. 4-5. For non-income changes, the Department must complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. BAM 220 (July 2015), p. 10.

In this case, the Department determined Petitioner's FAP allotment for [REDACTED], ongoing, based on \$0 in shelter expenses but acknowledged that Petitioner verified her \$500 monthly shelter expenses on [REDACTED]. Information reported on [REDACTED], [REDACTED] would affect September 2015 benefits. At the hearing, the Department admitted it had failed to process the verified shelter information to determine Petitioner's ongoing FAP eligibility and allotment. Therefore, the Department did not act in accordance with Department policy.

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 failed to process Petitioner's verified shelter expenses in calculating her FAP benefits for [REDACTED], ongoing.

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. Recalculate Petitioner's FAP benefits for [REDACTED], ongoing, to take into consideration verified shelter expenses;
2. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner in writing of any supplement she is eligible to receive and any increased FAP benefits.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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

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

ACE / 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:

