

**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.: 15-021021
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: Wayne (15)

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, an in-person hearing was held on February 10, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

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

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 benefit recipient.
2. Petitioner was the only member of her FAP benefit group.
3. Petitioner had ongoing medical expenses of \$105/month.
4. On [REDACTED], MDHHS determined Petitioner was eligible for \$16/month in FAP benefits, effective November 2015, in part, based on a group size of 1, countable medical expenses of \$70, and a housing expense of \$0.
5. On [REDACTED], Petitioner requested a hearing to dispute the FAP eligibility determination for November 2015.

6. On [REDACTED], Petitioner first reported a monthly housing expense of \$850 to MDHHS.

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 to dispute a FAP determination reducing her FAP eligibility to \$16/month. It was not disputed that the reduction became effective November 2015.

MDHHS presented a Notice of Case Action dated [REDACTED] (Exhibit 1, pp. 1-3). The notice included a budget summary listing all FAP budget amounts factored by MDHHS. During the hearing, Petitioner was asked if she disputed each of the income and expenses factored by MDHHS.

Petitioner testified she went 2 months without income in 2015. Petitioner testified she fell behind in rent and had to take out a loan to catch up on rent. Petitioner also testified she has thousands of dollars in old medical bills. Petitioner contended MDHHS should have factored these circumstances in her FAP eligibility. Petitioner's testimony was credible and appreciated; it is also irrelevant to the FAP determination.

BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses. Old medical expenses and loans are not countable expenses.

Petitioner initially contended MDHHS should have included her adult daughter in the FAP determination. Petitioner's contention was perplexing because her daughter received FAP benefits separately. Petitioner testified her daughter's FAP benefit eligibility ended for a reason unrelated her FAP eligibility reduction. Petitioner testimony did not provide any basis for including her daughter in the FAP determination. It is found MDHHS properly factored a group only including Petitioner.

Petitioner testified her monthly income was \$1,546.00/month from Social Security Administration benefits. MDHHS factored \$1,546.00 as Petitioner's monthly unearned income.

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 was not disputed that Petitioner was disabled.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded she did not have day care or child support expenses. Petitioner stated she had ongoing medical expenses of \$105/month from a Medicare premium. MDHHS is to apply a \$35 copay to medical expenses. Petitioner's countable medical expense are \$70/month. Petitioner's running countable income total is \$1476.00.

Petitioner's FAP benefit group receives a standard deduction of \$154.00. 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 \$1,322.00.

MDHHS budgeted \$0 in housing expenses. Petitioner testimony contended MDHHS should have factored an \$850.00 housing expense. Petitioner testimony conceded she did not report the expense to MDHHS until November 18, 2015, the date of her pre-hearing conference. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11.

Petitioner cannot fault MDHHS for not budgeting a rent obligation that was unreported as of [REDACTED] (the date of determination) or even the date of her hearing request (November 9, 2015). It is found MDHHS properly factored Petitioner's housing expenses to be \$0.

It should be noted presented evidence was not clear that MDHHS processed Petitioner's [REDACTED] reporting of her housing expense. If Petitioner believes that MDHHS erred by not processing the expense, Petitioner can separately request a hearing.

MDHHS credited Petitioner with the maximum utility standard of \$539.00 (see RFT 255). Petitioner's total shelter expenses are found to be \$539.00.

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 \$1,322.00. 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 \$16.00, the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility to be \$16.00, effective November 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: *February 16, 2016*

Date Mailed: February 12, 2016

CG / 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:

