

**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.: 15-021366
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 11, 2016
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 11, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner's Food Assistance Program (FAP) benefit amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing FAP recipient and currently receives \$ [REDACTED] in FAP benefits monthly.
2. The Department used earned income of \$ [REDACTED] monthly to calculate the Petitioner's FAP benefits. This amount was based upon paystubs provided to the Department. Exhibit 3.
3. The Petitioner does not pay for heat or electricity but does have a phone obligation, which was not included as an expense in the excess shelter calculation. Exhibit 4.
4. The Petitioner does not pay any rent or other housing expenses.

5. The Petitioner requested a hearing on November 9, 2015, protesting the Department's action.

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.

In this case, the Petitioner disputed his FAP benefit amount and sought to have his benefits restored after a hearing decision. The Hearing Decision issued on June 17, 2015, by Administrative Law Judge Michael Bennane, ordered the Department to reinstate the Petitioner's FAP benefits to March 13, 2015, and supplement Petitioner for any missed benefits. Based upon the eligibility summary provided by the Department, the Department did reinstate the case and provided the FAP benefits to Petitioner ongoing so the Department did comply with the Hearing Decision. Exhibit 5. Recently, the Department further reduced the Petitioner's FAP benefits to \$ [REDACTED] after a review. The Department presented the FAP budget, which was reviewed at the hearing.

The Department correctly included the monthly gross income of \$ [REDACTED] and was confirmed by the Petitioner as correct. Exhibit 3. The Department also afforded the Petitioner a \$ [REDACTED] earned income credit, which was deducted from the earned income and is 20 percent of the earned income and is correct. The Department also correctly subtracted a standard deduction for a FAP group of one person in the amount of \$ [REDACTED] RFT 255. Once the Department made these subtractions, the adjusted gross income was \$ [REDACTED] Exhibit 4. BEM 505 (July 1, 2015).

The Petitioner credibly testified at the hearing that he pays for his phone and that he told his caseworker this fact on several occasions. The Department is required to include a telephone allowance as a housing cost of \$ [REDACTED] RFT 255 (October 1, 2015) p. 1. BEM 554 provides: A FAP group, which has no heating/cooling expense but has a responsibility to pay for a traditional land-line service, cellular phone service including per-minute or per-call service and voice over internet protocol (VoIP), must use the telephone standard. The standard covers **only** the telephone expense. Exhibit 5.

Verification

Do not verify the telephone expense, unless questionable; see BAM 130 regarding verification of questionable data. BEM 554 (October 1, 2015) p. 20.

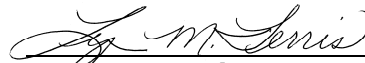
In this case, the total shelter expense would be \$ [REDACTED]. The excess shelter calculation requires that one half the adjusted gross income ($\$ [REDACTED] \div 2 = \$ [REDACTED]$) be deducted from the shelter expense. In this case, this results in a \$0 excess shelter expense; and thus, the Petitioner's phone bill expense does not affect the final FAP benefit amount. ($\$ [REDACTED] - \$ [REDACTED] = [REDACTED]$) and results in zero excess shelter deduction. BEM 556 (July 1, 2013) p. 5.

Exhibit 6, which was received after the hearing, which is a Notice of Case Action issued after the hearing request, contains a calculation of FAP benefits which does include the telephone allowance of \$ [REDACTED] and results in an FAP allotment which is the same as determined in this Hearing Decision and that the correct FAP amount is \$ [REDACTED].

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 even though it calculated the FAP benefits without including the telephone allowance acted in accordance with Department policy when it correctly determined the benefits for FAP to be \$ [REDACTED]. The failure to include the telephone expense does not change the FAP benefit amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/13/2016**

LMF/jaf

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:

