

**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.: 15-021701
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: Macomb (12)

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 13, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

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 a member of a 2-person FAP group.
3. Petitioner did not report medical expenses or a cooling obligation to MDHHS.
4. On an unspecified date, MDHHS determined Petitioner's FAP eligibility, effective December 2015, in part, based on \$0 medical expenses and no cooling obligation.
5. On November 19, 2015, Petitioner requested a hearing to dispute FAP 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 to dispute a reduction in FAP eligibility from [REDACTED] to [REDACTED]. It was not disputed that the reduction began in December 2015.

Petitioner testified that he requested a hearing because he thought that he did not receive enough FAP benefits. Petitioner also testified that he knew of someone in his building who received more FAP benefits than him. Neither of Petitioner's reasons for requesting a hearing are compelling reasons and/or evidence to reverse the MDHHS determination of eligibility.

The only way to determine if the MDHHS determination was proper is to examine the FAP eligibility determination. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

MDHHS presented Petitioner's FAP- EDG Net Income Results (Exhibit 1, pp. 1-2) and FAP- Excess Shelter Deduction (Exhibit 1, p. 3) for December 2015. The documentation verified the amounts MDHHS factored in the disputed FAP determination.

MDHHS budgeted [REDACTED] for Petitioner's FAP group's unearned income. Petitioner conceded the amount to be accurate.

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 the household included at least one disabled member based on receipt of unearned income.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded he had no day care expenses. Petitioner testimony indicated he had [REDACTED] in monthly child support expenses. Petitioner's running income total is found to be [REDACTED]

MDHHS factored zero medical expenses. Petitioner testimony alleged the amount budgeted was incorrect. Petitioner initially testified that he knew that medical expenses were reported to MDHHS. Later Petitioner's testimony indicated that his wife completed MDHHS documentation and that he was unsure if medical expenses were reported to MDHHS. Presented evidence failed to sufficiently suggest that any person reported Petitioner's household medical expenses to MDHHS.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (4/2015), p. 11. If Petitioner did not report medical expenses to MDHHS, MDHHS cannot be faulted for not budgeting them. It is found that MDHHS properly did not budget medical 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] in housing expenses. Petitioner testified his housing expenses increased beginning January 2016. Petitioner's testimony is irrelevant to a FAP budget for December 2015. Petitioner's housing costs are found to be [REDACTED].

Petitioner's factored utility obligations were disputed. Petitioner alleged he was responsible for cooling expenses.

The heat/utility (h/u) standard covers all heat and utility costs including cooling. BEM 554 (October 2014), p. 14. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. *Id.*, p. 15. FAP groups whose electricity is included in their rent or fees are not eligible for the h/u standard unless their landlord bills them separately for excess cooling. *Id.*, p. 17. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if they verify they have the responsibility to pay for non-heat electric. *Id.*, p. 16.

MDHHS testimony indicated Petitioner never reported a cooling obligation. MDHHS supported their testimony by checking Petitioner's case history. It was not disputed that Petitioner's benefit application from 2012 failed to allege an obligation for paying cooling. Petitioner testimony conceded he never reported to MDHHS that his household was responsible for cooling. As stated in the medical expense analysis, MDHHS cannot be faulted for not budgeting what was not reported. It is found that MDHHS properly did not credit Petitioner for a cooling obligation.

It was not disputed that Petitioner paid for electricity and a telephone. MDHHS gave standard credits (see BEM 255) of [REDACTED] for an electricity obligation and [REDACTED] for a telephone obligation.

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 [REDACTED] the same amount calculated by MDHHS.

Petitioner was advised that the hearing could be used as a reporting of cooling obligation and medical expenses. Petitioner’s reporting of expenses could be used to positively affect future FAP eligibility. The reporting has no effect on MDHHS’ determination for December 2015.

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 [REDACTED], effective December 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: **1/14/2016**

Date Mailed: **1/14/2016**

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:

