

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**IN THE MATTER OF:**

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████████████████████

MAHS Reg. No.: 15-021781  
Issue No.: 3008  
Agency Case No.: ██████████  
Hearing Date: January 11, 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 11, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for October 1, 2015 ongoing?

**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. Petitioner has two members in her household: herself and her minor child.
3. Petitioner's child is disabled and receives Supplemental Security Income (SSI) based on his disability.
4. On September 12, 2015, the Department notified Petitioner that effective October 1, 2015, her monthly FAP benefits decreased to \$20 (Exhibit A).
5. On October 15, 2015, Petitioner submitted a Semi-Annual Contact Report (Exhibit B).

6. In connection with the semi-annual contact report, the Department recalculated Petitioner's FAP eligibility and amount using her income from two employers: [REDACTED] (Employer 1) and [REDACTED] Employer 2).
7. Beginning November 1, 2015, Petitioner's monthly FAP benefits decreased to \$16.
8. On November 18, 2015, Petitioner filed a request for hearing disputing the calculation of her FAP benefits.

### **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.

The Department testified that Petitioner received \$20 in monthly FAP benefits in October 2015, decreasing to \$16 effective November 2015, based on her employment income. Petitioner filed a hearing request on November 18, 2015 disputing the reduction of her FAP benefits and contending that she was owed a supplement for FAP benefits to January 2015. A client is limited to challenging current FAP benefit calculations and Department actions within 90 days of the request for hearing. BAM 600 (October 2015), p. 6. Therefore, the issue at the hearing was limited to reviewing the reduction of FAP benefits to \$20 effective October 1, 2015, which Petitioner was notified of in the September 12, 2015 Notice of Case Action, and the calculation of \$16 in monthly FAP benefits Petitioner received at the time of the hearing request.

A client's monthly FAP allotment is based on the client's net income, which is calculated by reducing the household's gross monthly income by the allowable deductions. BEM 556 (July 2013), pp. 1-7. Because the Department did not include a FAP net income budget for October 2015, the budget information in the September 12, 2015 Notice of Case Action was reviewed with Petitioner and the Department at the hearing (Exhibit A). The September 12, 2015 Notice of Case Action showed that the Department concluded that Petitioner's household had gross monthly earned income of \$1295 from her employment at Employer 1 and Employer 2 and \$676 in unearned income from her son's SSI income.

The SOLQ, the report showing information concerning client's benefits from the Social Security Administration (SSA), showed that in September 2015, Petitioner's son received \$663 in SSI (Exhibit E). As an SSI recipient, Petitioner's son would also be eligible for a \$42 quarterly State SSI Payment. See BEM 660 (July 2013), pp. 1-2; RFT 248 (January 2015), p. 1. The Department considers the corresponding monthly \$14 SSP in calculating FAP benefits. BEM 503 (October 2015), p. 33. Therefore, Petitioner's household had \$676 in monthly unearned income, the sum of \$663 SSI and \$14 SSP, in September 2015, which was used to prospect ongoing unearned income for the household.

The Department testified that the \$1295 in earned income was based on Petitioner's monthly income from Employer 1 and Employer 2 as shown on the Work Number, the Department-accessible database which includes employment information voluntarily reported by participating employers (Exhibits C and D). Although the Department testified that the income in the September 12, 2015 Notice of Case Action was based on Petitioner's October 2015 income, because the Notice was sent in mid-September, October 2015 income figures were not available. Presumably, August 2015 income was used. Information from the Work Number shows that Petitioner was paid twice each month by Employer 1 and biweekly by Employer 2. Therefore, in calculating gross monthly employment income, the Department would add (i) the bimonthly income Petitioner received from Employer 1 in August 2015 to (ii) the average biweekly pay Petitioner received from Employer 2 in August 2015 multiplied by 2.15. BEM 505 (July 2015), pp. 7-8. When this calculation is performed, the result is income slightly more than the \$1295 used by the Department. The sum of \$1295 in earned income and \$676 in unearned income results in \$1971 in total income.

The deductions to income, as shown on the September 12, 2015 FAP budget, were also reviewed with Petitioner. Petitioner confirmed that she had two people in her FAP group, her and her minor child. Because Petitioner's child was disabled and receiving SSI, he is an SDV member of Petitioner's FAP group. BEM 550 (October 2015), pp. 1-2. To arrive at net monthly income, the gross monthly income of a FAP group with an SDV member and earned income is reduced by the following deductions: an earned income deduction equal to 20% of the gross monthly earned income, a standard deduction based on group size, a child support deduction, a dependent care deduction, a medical expenses deduction for verified medical expenses in excess of \$35 for SDV members, and an excess shelter deduction. BEM 554 (October 2015), p. 1; RFT 255 (October 2015), p. 1; BEM 550 (October 2015), p. 1.

Because Petitioner had a two-member FAP group, she was eligible for a \$154 standard deduction, as shown on the budget. RFT 255, p. 1. The earned income deduction is not shown in the budget on the September 12, 2015 Notice of Case Action, but, based on gross earned income of \$1295, it is \$259. Petitioner confirmed that she had no child care, child support, or medical expenses. Therefore, she was not eligible for a deduction for such expenses. Petitioner's gross income of \$1971 reduced by the \$154

standard deduction and the \$259 earned income deduction results in adjusted gross income of \$1558.

The final deduction available to Petitioner in determining her net income was the excess shelter deduction, which is based on gross monthly shelter expenses and the utility standard that applies to the client's circumstances. In this case, the September 12, 2015 Notice of Case Action notified Petitioner that the Department used \$676 for monthly housing costs, which Petitioner verified was her monthly rent. The Department applied the \$539 heat and utility (h/u) standard, which is the most advantageous utility standard available to a client. See RFT 255, p. 1. The Department testified that Petitioner had verified her rent and utility obligations. Based on this information, Petitioner's excess shelter deduction was \$435.

Petitioner's \$1558 adjusted gross income reduced by her \$435 excess shelter deduction results in net income of \$1123. Based on net income of \$1123 and a group size of 2, Petitioner was eligible for monthly FAP benefits of \$20 for October 2015. See RFT 260 (October 2015), p. 15. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for October 2015.

The evidence presented also showed that there was a further decrease in Petitioner's FAP benefits to \$16 monthly effective November 1, 2015 (Exhibit F). It appears that this reduction was due to the processing of a semi-annual contact report Petitioner submitted to the Department on October 16, 2015 (Exhibit B). The Department provided a copy of the FAP net income budget for November 2015 for review (Exhibit G). The budget shows unearned income of \$747. Based on Petitioner's testimony that her son was regularly receiving \$733 in monthly SSI since the SSA's error in issuing his September 2015 benefits was corrected, the Department properly concluded that the household received monthly unearned income of \$747, the sum of the child's monthly \$733 SSI and \$14 SSP.

The budget also showed gross monthly earned income of \$1416. It appears that this calculation was based on Petitioner's income from Employer 1 and Employer 2 in September 2015, calculated in the manner discussed above for earned income paid biweekly and bimonthly. To determine future months' income, the Department must prospect income using a best estimate of income expected to be received during the month. BEM 505 (July 2015), p. 2. Past income for the past 30 days is used to prospect income for the future if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 5. The Department should seek input from the client to establish an estimate wherever possible. BEM 505 (July 2015), p. 2.

In this case, the Work Number information showed that the initial pay for October 2015 at both Employer 1 and Employer 2 was significantly less than that in prior pay periods. There was no evidence that the Department asked Petitioner regarding her ongoing employment status at either employer. In light of changes that were apparent in the Work Number at the time the semi-annual contact report was submitted and Petitioner's

testimony that her hours had decreased starting in October, the Department has failed to establish that it acted in accordance with Department policy when it recalculated Petitioner's FAP amount for November 1, 2015 ongoing, relying on her September 2015 pay to prospect ongoing income.

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 calculated Petitioner's FAP benefits for November 1, 2015 ongoing.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to calculation of FAP benefits for October 2015 **AND REVERSED IN PART** with respect to calculation of FAP benefits for November 2015 ongoing.

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 November 2015 ongoing;
2. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from November 1, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



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

Date Signed: **1/13/2016**

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

ACE / tlf

**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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]