

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

IN THE MATTER OF:



MAHS Reg. No.: 15-021866
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 12, 2016
County: Midland

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 12, 2016, from Lansing, Michigan. Katrina Davis, the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist (FIS).

ISSUE

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

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 FAP recipient with a household size of 5. (Department Exhibit A, p. 9)
2. On October 7, 2015, Petitioner's case transferred to the Midland County Department office. (Department Exhibit A, p. 4)
3. The Department verified Petitioner's income and shelter expenses. (Department Exhibit A, pp. 7-8, and 13-24)
4. On November 17, 2015, a Notice of Case Action was issued to Petitioner stating the FAP monthly allotment would decrease to \$ [REDACTED] per month effective December 1, 2015. (Department Exhibit A, pp. 9-12)
5. On November 25, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit A, pp. 2-3)

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 calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (October 1, 2015), pp. 1.

For current and future months, the Department is to prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505, (July 1, 2015), p. 2. A standard monthly amount must be determined for each income source used in the budget. Accordingly, the Department is to convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. The Department is to use one of the following methods: multiply weekly income by 4.3; multiply amounts received every two weeks by 2.15; or add amounts received twice a month. This conversion takes into account fluctuations due to the number of scheduled pays in a month. However, the Department is not to convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. BEM 505, pp. 7-8.

A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2015), pp. 12-13.

Heat and utility expenses can also be included as allowed by policy. The Department allows only the utilities for which a client is responsible to pay. FAP groups that qualify for the full heat and utility (h/u) standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. However, FAP groups who have received a home heating credit (HHC) in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. FAP groups who have received a Low Income Home Energy Assistance Payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the

application month or in the immediately preceding 12 months prior to the application month are eligible for the h/u standard. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. The Department is then to use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23.

As of October 1, 2015, the FAP standard deduction for a group size of 5 persons is \$ [REDACTED]. As of October 1, 2015, the full h/u standard is \$ [REDACTED] RFT 255, (October 1, 2015), p. 1.

In this case, the Department explained that based on the verifications received, Petitioner's income was updated in the FAP budget. This resulted in a decrease in the monthly FAP allotment. It appears that in the prior FAP budget, income from Petitioner's full time job was projected based only on her initial check, which had partial hours instead of full time hours. The Department also confirmed that the income from Petitioner's son was not changed as there was no new verification for this income. (FIS Testimony)

Petitioner testified about several of her monthly expenses, including her car note, insurance, utilities, and rent. Petitioner explained that it is hard to feed her family on \$ [REDACTED] per month. (Petitioner Testimony)

This ALJ understands that Petitioner has more expenses than what the Department's policy allows to be specifically considered in the FAP budget. However, this ALJ must review the Department's action under the existing policies and has no authority to change or make exception(s) to the Department policies.

Petitioner also testified that the hours shown on the paycheck stubs submitted to the Department from her part time job are not an accurate reflection of the hours she usually works. Petitioner noted that the hours on these paycheck stubs included orientation and training. (Department Exhibit A, pp. 14-15) However, based on the information provided to the Department, it was not clear that the income on these checks was not going to be typical of Petitioner's expected future income from this job. For example, the compliance training and in service hours appear on both of the provided paycheck stubs, which would indicate these types of hours would continue. It is also noted that the orientation hours were not on the earlier of these two paycheck stubs, as would typically be expected for a one time orientation at the start of new employment. The amount of hours worked was also similar for these two paycheck stubs, 5.93 hours and 7.1 hours. Additionally, there was no evidence that when these verifications were submitted to the Department Petitioner included any additional information to indicate these paycheck stubs would not be typical of her ongoing expected income from this job. Rather, the evidence indicates the Department excluded from the projected income an even earlier paycheck stub from this job that seemed to have an abnormally low number of hours compared to the other paycheck stubs. (Department Exhibit A, p. 17) Accordingly, the Department appropriately utilized the available information at that time to prospect income from this job. If she has not

already done so, Petitioner may wish to provide updated verification to the Department of the income from this job to consider for her current and ongoing FAP eligibility.

Overall, the evidence shows that the Department properly determined the amount of Petitioner's FAP monthly allotment. The available income verifications at that time were utilized, the gross countable earned income was reduced by a 20 percent earned income deduction, and the appropriate standard was included for the group size. There were no disputes regarding any other allowable expenses, such as the housing cost and h/u standard.

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 acted in accordance with Department policy when it determined the amount of Petitioner's FAP monthly allotment based on the information available at that time.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **1/22/2016**

CL/las

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:

