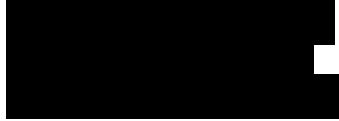


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-022604
Issue No.: 3001
Agency Case No.:
Hearing Date: January 20, 2016
County: Wayne (17)

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 20, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by , 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 had an \$800.00/month expense for housing.
3. On , MDHHS determined Petitioner's FAP eligibility, effective December 2015, in part, based on a housing obligation of \$0.
4. On , Petitioner requested a hearing to dispute his 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 his FAP eligibility for December 2015. Petitioner provided no specific basis to support that the FAP determination was improper.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED], [REDACTED]. The notice included a budget summary of all FAP eligibility amounts factored by MDHHS. FAP benefit budget factors include: group size, income, standard deduction, housing expenses, utility credits, medical expenses, child support expenses, day care expenses, and senior/disability/disabled veteran status (see BEM 556). During the hearing, Petitioner was asked about each FAP eligibility factor. The only FAP budget factor in dispute concerned housing costs.

The presented budget summary stated MDHHS factored \$0 for Petitioner's housing costs. Petitioner responded that he paid \$800/month in rent.

[MDHHS is to] allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (October 2015) p. 12. Acceptable verification sources include, but are not limited to... [a] current lease. *Id.*, p. 14.

[For FAP benefits, MDHHS is to] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2015), p. 7. [For benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

MDHHS testimony conceded Petitioner submitted a lease to MDHHS on [REDACTED], [REDACTED]. MDHHS testimony also conceded Petitioner's lease verified a monthly rental obligation of \$800.00. MDHHS provided no explanation for not factoring Petitioner's verified \$800.00 housing cost in the FAP benefit determination for December 2015. It is found MDHHS improperly determined Petitioner's FAP eligibility for December 2015.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility, effective December 2015, subject to the findings that Petitioner verified a \$800.00/month housing obligation on [REDACTED]; and
- (2) supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: 1/25/16

Date Mailed: 1/25/16

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:

