

**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.: 15-022792
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: January 25, 2016
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 25, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department was represented by ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

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 recipient of FAP benefits.
2. Petitioner was previously approved for FAP benefits in the amount of \$143 monthly. (Exhibit A)
3. Effective April 1, 2015, Petitioner's FAP benefits were reduced to \$16. (Exhibit A)
4. Petitioner receives \$769 in monthly RSDI benefits. (Exhibit C)
5. Petitioner's monthly rental obligation was \$200 until January 1, 2016. (Exhibit 1)
6. On December 8, 2015, Petitioner requested a hearing disputing the amount of his 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.

As a preliminary matter, the first issue addressed at the hearing was the timeliness of Petitioner's hearing request. Upon further review of Department policy, it was determined that Petitioner's hearing request concerned the amount of his FAP benefits and was timely for hearing purposes. See BAM 600 (October 2015), pp. 4-7.

In this case, Petitioner requested a hearing to dispute the amount of his FAP benefits. The Department presented a FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit B).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. The Department considers the gross amount of money earned from RSDI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28-32. The Department concluded that Petitioner had \$769 in unearned income which it testified consisted of Petitioner's monthly RSDI benefits. Petitioner confirmed the amount relied on and the Department presented a SOLQ in support of its testimony. (Exhibit C). Thus, the Department properly calculated Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.

- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income and there was no evidence presented that he had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Petitioner's excess shelter deduction, the budget shows that the Department properly considered Petitioner's confirmed monthly rent of \$200 and the telephone standard. Petitioner stated that his rent increased to \$300 effective January 1, 2016, and provided verification of such increase at the hearing. (Exhibit 1). Petitioner confirmed that he is not responsible for heating, cooling, electric or other utility expenses separate from his monthly rent, thus, the Department properly excluded the heat and utility standard from the calculation of his excess shelter deduction and properly determined that Petitioner was eligible for an excess shelter deduction of \$0. BEM 554, pp.16-19;BEM 556, pp. 4-5. Petitioner was informed that the Department would apply his increased rental expenses and recalculate his future FAP budget.

After further review, the Department properly reduced Petitioner's gross income of \$769 by the \$154 standard deduction resulting in monthly net income of \$615. Based on net income of \$615 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 8.

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 calculated Petitioner's FAP benefits.

DECISION AND ORDER

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



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/29/2016**

Date Mailed: **1/29/2016**

ZB / 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]