

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-022909
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: January 25, 2016
County: Wayne-District 41

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 was represented by her Authorized Hearing Representative, ██████████. The Department was represented by ██████████, Hearings Facilitator.

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. In connection with a New Hire Client Notice and paystubs submitted on September 29, 2015, Petitioner's eligibility for FAP benefits was reviewed. (Exhibit A, pp. 5-9)
3. On October 29, 2015, the Department sent Petitioner a Notice of Case Action informing her that effective November 1, 2015, she was approved for FAP benefits in the amount of \$20 monthly. (Exhibit A, pp. 10-13)
4. On November 30, 2015, Petitioner requested a hearing to dispute the Department's 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.

In this case, Petitioner requested a hearing to dispute the decrease in her FAP benefits. The Department stated that after receiving verification of Petitioner's employment, her FAP budget was recalculated. 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 (July 2015), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2014), pp. 6-7).

The Department concluded that Petitioner had earned income in the amount of \$2671 which it testified consisted of her wages from employment at [REDACTED] and as a chore provider. Specifically, the Department testified that it relied on the paystubs provided and considered her biweekly pay of: (i) \$1144 paid on August 21, 2015; (ii) \$880 paid on September 4, 2015; and (iii) \$1012 paid on September 18, 2015. (Exhibit A, pp. 7-9). The Department stated that it also considered Petitioner's monthly earnings of \$495.30 from her employment as a chore provider. At the hearing, Petitioner stated that the earnings relied on by the Department from [REDACTED] include overtime pay which she no longer receives. Petitioner also stated that she has not worked as a chore

provider since her mother died in June 2015. Petitioner confirmed that she did not provide the Department with updated paystubs reflecting the lower wages and that she did not inform the Department of her loss of employment as a chore provider. Therefore, after further review, in consideration of the above referenced policy and based on the information the Department had available at the time the budget was completed, the Department properly calculated Petitioner's earned income. Petitioner was informed that should she provide updated income information, the Department would recalculate her future FAP budget.

The deductions to income on the budget were also reviewed. Claimant's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that the 20% earned income deduction was \$535. Based on the confirmed three person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2015), p. 1. Petitioner did not have any child support expenses or dependent care expenses; therefore, the budget properly did not include a deduction for child support or dependent care expenses. The Department properly considered the \$539 heat and utility standard in calculating Petitioner's excess shelter deduction as well as her confirmed housing expenses of \$800. Thus, the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$348.

After further review, the Department properly reduced Petitioner's total gross income of \$2671 by the \$535 earned income deduction, the \$154 standard deduction and the \$348 excess shelter deduction, resulting in monthly net income of \$1634. Based on net income of \$1634 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$20. BEM 556; RFT 260 (October 2015), p. 21.

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 the amount of Claimant'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: **1/28/2016**

Date Mailed: **1/28/2016**

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]
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