

**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.: 15-023235
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: February 01, 2016
County: Macomb-District 12

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 three way telephone hearing was held on February 1, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with ██████████, 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 in the amount of \$203.
2. On December 1, 2015, the Department sent Petitioner a Notice of Case Action informing her that effective January 1, 2016, her FAP benefits would be decreased to \$10 monthly. (Exhibit A)
3. On December 17, 2015, the Department sent Petitioner a Notice of Case Action informing her that effective January 1, 2016, she was approved for FAP benefits in the amount of \$41 monthly. (Exhibit B, pp. 1-2)

4. While Petitioner asserted that she submitted a hearing request disputing the Department's calculation of her FAP benefits on December 1, 2015, the Department asserted that it received Petitioner's hearing request on December 18, 2015.

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, it was established at the hearing that Petitioner requested a hearing disputing the decrease in her FAP benefits effective January 1, 2016. The Department acknowledged that the Notices sent to Petitioner informing her of an approval for monthly FAP benefits in the amount of \$10 and \$41 were incorrect and it was further established that the Department recalculated Petitioner's FAP benefits three times prior to the hearing, ultimately deciding that effective January 1, 2016, Petitioner was eligible to receive \$131 in FAP benefits. The Department stated that because Petitioner's FAP benefits were restored to the previous level at \$203 pending the outcome of the hearing, the Department was unable to certify the benefits at the current level of \$131 and send Petitioner a Notice of Case Action advising her of the increase. The Department presented a FAP EDG Net Income Results Budget for the month of January 2016 which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits in the amount of \$131. (Exhibit C)

All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), 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 (October 2015), pp. 28.

Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is

considered in the calculation of a client's gross unearned income. The Department will enter child support payments received by a custodial party for an adult child or child no longer living in the home, as other unearned income of the payee as long as the money is not forwarded to the adult/child. BEM 503, pp. 6-9. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505 (July 2015), pp. 3-4.

The Department concluded that Petitioner had unearned income in the amount of \$2127 which it testified consisted of RSDI benefits and other unearned income from child support for an adult child no longer in the home. Specifically, the Department considered: \$875.90 in RSDI for Petitioner; \$111 in RSDI for Petitioner's child; \$111 in RSDI for Petitioner's other child; \$1029.75 in child support for the month of September 2015; \$1029.74 in child support for the month of October 2015; and \$1029.74 in child support for the month of November 2015. Petitioner confirmed that the RSDI amounts relied on by the Department were correct. With respect to child support, the Department presented a child support search in support of its testimony and Petitioner did not dispute the amounts relied on by the Department or that she received the payments (Exhibit B, pp. 15-18). After further review and in consideration of the above referenced policies, the Department properly calculated Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (October 2015), 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 2015), 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 she had any out of pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, or child support expenses. The budget shows a medical deduction of \$70, which the Department testified was based on Petitioner's Medicare Part B insurance premium in the amount of \$104.90. Based on her confirmed three-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2015), p. 1. In calculating Petitioner's excess shelter deduction of \$638,

the Department considered her verified housing expenses of \$1050 and the \$539 standard heat and utility deduction. BEM 554, pp. 16-19; RFT 255, p.1.

After further review, the Department properly reduced Petitioner's gross income of \$2127 by the \$154 standard deduction, the \$70 medical deduction and the \$638 excess shelter deduction, resulting in monthly net income of \$1265. Based on net income of \$1265 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 \$131. BEM 556; RFT 260 (October 2015), p.16.

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: **2/5/2016**

Date Mailed: **2/5/2016**

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]
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