

**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.: 15-023527
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: February 22, 2016
County: Oakland-District 3
(Southfield)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on February 22, 2016, from Southfield, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate 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 August 2015, the Department received an updated shelter verification showing that Petitioner was responsible for monthly rent of \$274 and his rent included electric, water/sewer, cooking fuel, heat/cooling (including room air conditioner), and trash removal but did not include telephone (Exhibit A, pp. 23-24).
3. On August 7, 2015, the Department sent Petitioner a Notice of Case Action notifying him that his monthly FAP allotment was decreasing to \$16 effective September 1, 2015 (Exhibit A, pp. 29-32).

4. On August 17, 2015, Petitioner submitted a hearing request concerning the decrease in his FAP benefits (Exhibit A, p. 7). When Petitioner missed the scheduled November 9, 2015 hearing, his hearing was dismissed. His subsequent request to vacate the order of dismissal was denied. (Exhibit A, pp. 1-3.)
5. On December 22, 2015, Petitioner verbally requested a hearing to dispute the denial of the order to vacate (Exhibit B).

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.

Petitioner requested a hearing to dispute the denial of his request to vacate the dismissal of his November 9, 2015 hearing to address the decrease of his FAP benefits effective September 1, 2015. At the hearing, Petitioner was advised that the denial of the motion to vacate was not an appropriate basis for a hearing and would not be reviewed. See BAM 600 (October 2015), pp. 4-5. However, because Petitioner's underlying request concerned the calculation of FAP benefits, his December 22, 2015 hearing request was deemed sufficient to challenge the current level of FAP benefits at the time of the hearing request. See BAM 600, pp. 4-5.

Petitioner acknowledged that he received \$16 in FAP benefits for December 2015. Therefore, the FAP net income budget for September 2015 showing the calculation of Petitioner's monthly FAP benefits of \$16 was reviewed with Petitioner at the hearing (Exhibit A, pp. 26-28).

The budget showed gross monthly unearned income of \$963, which Petitioner confirmed was his monthly social security benefits. Because Petitioner is over age 65, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (October 2015), p. 1. FAP groups with one or more SDV members and no earned income have the following deductions to the household's gross monthly unearned income: the standard deduction (based on group size), child care expenses, child

support expenses, and verified out-of-pocket medical expenses in excess of \$35. BEM 554 (October 2015), p. 1.

The Department testified that the only deduction Petitioner was eligible to receive was the standard deduction. Petitioner, who confirmed he was the only member of his FAP group, is eligible for a \$154 standard deduction for a single-member FAP group. RFT 255 (October 2015), p. 1. Petitioner confirmed that he had no child care, child support, or out-of-pocket medical expenses. Therefore, he was not eligible for any deduction for those expenses. Petitioner's \$963 monthly gross income reduced by the \$154 standard deduction results in adjusted gross income of \$809.

The final deduction available in calculating a client's net income is the excess shelter deduction. The excess shelter deduction is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay **less** (ii) 50% of the client's adjusted gross income. BEM 556, pp. 4-5.

In this case, Petitioner confirmed that, at the time the shelter verification was received, his rent was \$274, as shown on the excess shelter deduction. (Exhibit A, p. 28). The utility standard that applies to a client's case is dependent on the client's circumstances. A client is eligible for the mandatory heat and utility (h/u) standard, the most advantageous utility standard available to a client, if (i) the client is responsible for, or contributes towards, heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a home heating credit (HHC) in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the certification month at the time of redetermination; (iv) the client 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 certification month or in the immediately preceding 12 months prior to the certification month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 14-20; RFT 255 (October 2015 and October 2014), p. 1. Petitioner's testimony at the hearing established that he did not meet any of the criteria for receipt of the mandatory h/u standard.

If a client is not eligible for the mandatory h/u standard, he may be eligible for mandatory *individual* standards for non-heat electric, water and/or sewer, telephone, cooking fuel, and/or trash removal, as applicable. BEM 554, pp. 20-23. In this case, Petitioner confirmed that water, sewer, trash removal, and electric were all included in his rent, as shown on the shelter verification form (Exhibit A, pp. 23-24). Therefore, the only utility identified on the budget is the telephone. The telephone standard was \$34, as shown on the September 2015 excess shelter deduction budget. RFT 255 (October 2014), p. 1. It decreased to \$33 effective October 1, 2015. RFT 255 (October 2015), p. 1.

Based on Petitioner's \$274 monthly rent and the \$33 telephone standard, his monthly housing expenses total \$307. To determine the excess shelter deduction, the monthly housing expenses of \$307 are reduced by 50% of the adjusted gross income, or \$404 in this case. Because this is a negative number, Petitioner's excess shelter deduction is \$0, as shown on the excess shelter deduction budget.

Because Petitioner had no excess shelter deduction, his adjusted gross income of \$809 is also his net income. Based on a FAP group size of one and net income of \$809, Petitioner was eligible for gross monthly FAP benefits of \$16. RFT 260 (October 2015), p. 11. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's monthly FAP benefits for December 2015 ongoing.

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**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **3/01/2016**

Date Mailed: **3/01/2016**

ACE / 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]