

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-020872
Issue No.: 3008
Agency Case No.: [REDACTED]
Hearing Date: January 4, 2016
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 January 4, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) allotment to the amount of \$150 effective [REDACTED]?

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 is an ongoing recipient of FAP benefits.
2. Prior to Petitioner's FAP decrease, her monthly allotment was \$357. See Exhibit A, p. 13.
3. On [REDACTED], Petitioner submitted her redetermination. See Exhibit A, pp. 4-11. In her redetermination, Petitioner reported the following and/or provided verification: (i) her household size is two (Petitioner and her son); (ii) she receives a gross income of \$779.17 per month for adult home help in which she provides services for her son; (iii) her son receives \$733 in monthly Supplemental Security Income (SSI); and (iv) her monthly rent is \$595. See Exhibit A, pp. 4-11.

4. Petitioner's son also receives \$14 in monthly State SSI Payments (SSP) (\$42 issued quarterly). See Exhibit A, p. 12 (State Supplement Payment Notice dated February 21, 2015).
5. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved for \$150 effective [REDACTED] to [REDACTED]. See Exhibit A, pp. 17-20.
6. On [REDACTED], Petitioner verbally requested a hearing in which she protested the decrease in her FAP allotment effective [REDACTED]. See Exhibit A, p. 2.
7. On or around [REDACTED], Petitioner requested a three-way telephone hearing, which was subsequently approved by the Michigan Administrative Hearing System (MAHS).

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.

It was not disputed that the certified group size is two and that Petitioner's son is a senior/disabled/disabled veteran (SDV) member. The Department presented the November 2015 FAP budget for review. See Exhibit A, p. 15.

First, the Department calculated Petitioner's gross earned income to be \$779. This amount comprised of Petitioner's income because she provides Independent Living Services (ILS) for her son. See Exhibit A, p. 11 (Verification of Petitioner's earned income). The Department enters income as wages for an individual who provides ILS (also known as adult home help) as earned income. BEM 501 (July 2014), p. 8. This income is not counted for the individual receiving the service. BEM 501, p. 8. The undersigned finds that the Department properly calculated Petitioner's gross earned income in accordance with Department policy. See BEM 501, p. 8.

Second, the Department calculated Petitioner's gross unearned income to be \$747. See Exhibit A, p. 15. This amount consisted of the following: (i) \$733 in Petitioner's SSI

income; and (ii) \$14 monthly average in SSP income. See Exhibit A, pp. 12 and 15 and see BEM 503 (October 2015), pp. 28-33. The undersigned finds that the Department properly calculated Petitioner's gross unearned income in accordance with Department policy. See BEM 503, pp. 28-33.

The result of both total income amounts above is \$1,526. See Exhibit A, p. 15. The Department will then apply a 20 percent earned income deduction for her ILS income. BEM 550 (October 2015), p. 1. Twenty percent of \$779 is \$156, which results in a post earned income of \$1,370. See Exhibit A, p. 15.

Next, the Department applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (October 2015), p. 1. Petitioner also did not dispute that the dependent care, medical, and child support deductions were calculated as zero. See Exhibit A, p. 15. Once the Department subtracts the \$154 standard deduction, this results in an adjusted gross income of \$1,216. See Exhibit A, p. 15.

Also, the FAP – Excess Shelter Deduction budget indicated that Petitioner's monthly housing expense is \$595, which she did not dispute. See Exhibit A, p. 16. The Department also provided Petitioner with the \$539 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$539 amount. See Exhibit A, p. 16; BEM 554 (October 2015), pp. 14-15; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$1,134. See Exhibit A, p. 16. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,216 adjusted gross income. Fifty percent of the adjusted gross income is \$608. See Exhibit A, p. 16. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$526. See Exhibit A, p. 16 and see BEM 554, p. 1 (For groups with one or more SDV member(s), the Department allows excess shelter).

The Department then obtains a net income of \$690 (\$1,216 adjusted gross income minus \$526 excess shelter deduction). See Exhibit A, p. 15. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be \$150 effective [REDACTED]. RFT 260 (October 2015), p. 9.

DECISION AND ORDER

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 properly calculated Petitioner's FAP allotment in the amount of \$150 effective [REDACTED].

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



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/5/2016**

Date Mailed: **1/5/2016**

EF / 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:

