

**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.: 15-021120
Issue No.: 1007; 2000; 3008
Agency Case No.: ██████████
Hearing Date: January 07, 2016
County: Wayne-District 57
(Conner)

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, a telephone hearing was held on January 7, 2015, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for November 1, 2015 ongoing?

Did the Department properly determine Petitioner's Family Independence Program (FIP) 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's household consists of herself and her minor child under age 6. Neither is disabled or over age 60.
3. On September 2, 2015, Petitioner applied for FIP and Medical Assistance (MA) benefits (Exhibit C).

4. Petitioner was pregnant at the time of her application.
5. On October 29, 2015, Petitioner applied for MA (Exhibit D).
6. On November 9, 2015, Petitioner filed a request for hearing disputing the amount of FIP and FAP benefits and the denial of her MA application.

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).

Petitioner filed a hearing request disputing her FIP and FAP allotment and the denial of her MA application. At the hearing, Petitioner testified that the MA issue had been resolved and she no longer wished to have a hearing concerning her MA case. Therefore, the hearing request is dismissed with respect to Petitioner's MA issue. The hearing proceeded to address Petitioner's FIP and FAP issues raised in her November 9, 2015 request for hearing.

FIP Case

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

At the hearing, the Department testified that, after Petitioner filed her hearing request, it reviewed her case, reprocessed the September 2, 2015 FIP application, and determined that Petitioner was eligible for \$403 in FIP benefits for October 1, 2015 ongoing. An eligibility summary confirmed that the Petitioner had been issued FIP benefits by the Department from October 1, 2015 through December 31, 2015 (Exhibit B). Therefore, the Department argued that it had resolved the FIP issue raised in Petitioner's November 9, 2015 hearing request.

Because Petitioner had a minor child in the home, she has two members in her FIP eligibility determination group (EDG): herself and the child. BEM 210 (July 2015), p. 5. There was no evidence that either Petitioner or her child received other program benefits or services affecting their FIP EDG participation service. BEM 210, p. 7. Therefore, Petitioner's case had two certified FIP group members. See BEM 210, pp. 13-14. The maximum monthly FIP allotment for a FIP group with two members is \$403. RFT 210 (December 2013), p. 1. Therefore, the Department acted in accordance with

Department policy when it approved Petitioner for FIP monthly FIP benefits of \$403. FIP assistance begins the pay period in which the application becomes 30 days old provided the group meets all eligibility requirements by that time. BAM 115 (October 2015), p. 25. Therefore, based on a September 2, 2015 application, the Department acted in accordance with Department policy when it began issuing FIP benefits effective October 1, 2015. Based on the evidence presented, the Department established that it resolved the FIP issue raised in Petitioner's November 9, 2015 hearing request prior to hearing.

FAP Case

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.

The Department testified that after it approved FIP benefits for Petitioner, it recalculated her FAP budget to take into consideration her FIP allotment as unearned income received by the household. The Department testified that, based on the recalculated FAP budget, Petitioner was eligible for \$282 in monthly FAP benefits beginning November 1, 2015 and presented an eligibility summary supporting its testimony (Exhibit B).

The Department did not present a FAP budget but testified that Petitioner's FAP benefits were based on monthly net income of \$249. In determining net income for a household with no earned income and no senior/disabled/veteran (SDV) members, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, and excess shelter expenses (based on monthly shelter costs and the applicable utility standard). BEM 554 (October 2015), p. 1.

The Department testified that the only deduction Petitioner was eligible to receive was the standard deduction. The standard deduction for a two member FAP group is \$154. RFT 255 (October 2015), p. 1. Petitioner confirmed that she had no child care or child support expenses. Therefore, she was not eligible for any deduction for those expenses. However, Petitioner argued that she had shelter expenses that the Department did not take into consideration. Petitioner testified that she notified the Department of her new address in October 2015 through a change of address filed at the local office and online and never received any request to verify her rental amount. The Department acknowledged that it processed an address change based on the October 29, 2015 application Petitioner submitted, but explained that no verification checklist was sent out requesting proof of rent because Petitioner did not identify any shelter expenses in the application. However, based on the application submitted (Exhibit D), it is unclear whether Petitioner was asked to identify any shelter expenses in

connection with her completion of the application. Because Petitioner identified a new address in the application, putting the Department on notice of a new residence, and there was no evidence that she was asked about her shelter expenses, the Department did not act in accordance with Department policy when it failed to request verification of shelter expenses (as well as utility costs) for purposes of determining whether Petitioner was eligible for an excess shelter deduction to her gross income. See BEM 554, p. 14. Consequently, the Department did not act in accordance with Department policy when it calculated Petitioner's FAP benefits for November 1, 2015 ongoing.

At the hearing, Petitioner also expressed concerns regarding changes to her FIP and FAP cases. The Department explained that in December 2015 Petitioner was notified that her FIP case was closing for an employment-related reason but contended that Petitioner's FAP case was not affected. Because the issues raised by Petitioner at the hearing involved actions taken by the Department to her cases in December 2015, after her November 9, 2015 request for hearing, Petitioner was advised that the undersigned lacked authority to address those actions. Petitioner was advised that she could submit a new hearing request to address those matters.

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 determined Petitioner was eligible for FIP benefits beginning October 1, 2015 but did not act in accordance with Department policy when it recalculated Petitioner's FAP benefits for November 1, 2015 ongoing without verifying shelter and utility expenses.

DECISION AND ORDER

Pursuant to Petitioner's withdrawal of her hearing request concerning the MA matter, the MA issue is DISMISSED.

The Department's decisions are **AFFIRMED IN PART** with respect to the approval of FIP benefits for October 1, 2015 ongoing and **REVERSED IN PART** with respect to the calculation of FAP benefits for November 1, 2015 ongoing.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP benefits for November 1, 2015 if Petitioner timely responds to a request for verification of shelter and utility expenses;

2. Issue supplements to Petitioner for any FAP benefits she is eligible to receive from November 1, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



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

Date Signed: **1/13/2016**

Date Mailed: **1/13/2016**

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.

