

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

IN THE MATTER OF:



MAHS Reg. No.: 15-022603
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 20, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS failed to properly determined Petitioner's group size and housing costs in determining Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. Petitioner was a member of a 3-person FAP benefit group which included Petitioner's step-daughter.
3. On [REDACTED], Petitioner reported to MDHHS that his step-daughter left his household.
4. On [REDACTED], Petitioner submitted verification to MDHHS that he had land contract expenses of \$480.53/month and an additional property tax obligation.

5. On [REDACTED], MDHHS issued a Notice of Case Action (Exhibit 1, pp. 1-2) stating Petitioner's FAP eligibility, effective November 2015, was determined, in part, based on a group size of 3 persons and \$0 housing costs.
6. On [REDACTED], Petitioner requested a hearing to dispute his FAP eligibility for November 2015.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a FAP eligibility determination, effective November 2015. Petitioner testified the only FAP benefit factors he wished to dispute were the group size and housing costs factored by MDHHS.

MDHHS factored a group size of 3 persons (see Exhibit 1, p. 1). Petitioner testified his actual FAP group size was 2 persons. It was not disputed that Petitioner reported a household size of 2 to MDHHS when Petitioner submitted a State Emergency Relief application to MDHHS on September 10, 2015.

When a member leaves a group to apply on his own or to join another group, [MDHHS is to] do a member delete in the month you learn of the application/member add. If the member delete decreases benefits, adequate notice is given for the negative action. BEM 550 (July 2015), p. 4.

It is not known if Petitioner's step-daughter applied for FAP benefits or joined another FAP group after leaving Petitioner's household. MDHHS is not known to have a separate policy for deleting group members when the member does not join another FAP group. Thus, the above-cited policy will be deemed to be applicable to Petitioner's circumstances.

MDHHS should have deleted Petitioner's step-daughter from Petitioner's FAP group in September 2015- the month Petitioner reported the change to MDHHS. Had MDHHS done so, Petitioner's FAP eligibility from November 2015 would have reflected a 2-person FAP group. MDHHS will be ordered to redetermine Petitioner's FAP eligibility based on the unprocessed change in group size. Petitioner should be warned that deleting a FAP member may result in a lowering of FAP benefits.

Petitioner also disputed the housing costs factored by MDHHS in his November 2015 FAP determination. MDHHS factored housing costs of \$0 (see Exhibit 1, p. 2). Petitioner alleged he was responsible for a land contract obligation and property taxes.

[For FAP benefits, MDHHS is to] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2015), p. 7. [For benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

It was not disputed that Petitioner submitted to MDHHS on [REDACTED], verification of his monthly housing costs. MDHHS conceded Petitioner verified a land contract obligation of \$480.83. MDHHS testimony further conceded Petitioner submitted a property tax bill (Exhibit 1, p. 3) verifying a \$1,592.55 annual obligation. MDHHS provided no explanation for failing to budget the expenses in Petitioner's November 2015 FAP determination. It is found that MDHHS improperly failed to factor Petitioner's housing costs in determining Petitioner's FAP eligibility for November 2015.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

(1) redetermine Petitioner's FAP eligibility, effective November 2015, subject to the following findings:

- a. MDHHS improperly failed to factor a group size of 2 persons based on Petitioner's reporting on [REDACTED];
- b. MDHHS improperly failed to factor a monthly housing obligation of \$480.83 and property tax obligation of \$1592.55, based on expenses verified by Petitioner on [REDACTED]; and

(2) supplement Petitioner for any FAP benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/22/2016**

Date Mailed: **1/22/2016**

CG / 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:

