

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

IN THE MATTER OF:



MAHS Reg. No.: 15-023852
Issue No.: 1000, 2000, 3008
Agency Case No.: [REDACTED]
Hearing Date: February 08, 2016
County: WAYNE (57) CONNER

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 8, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate the 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. The Petitioner originally requested a hearing regarding her Medical Assistance (MA) benefits and Family Independence Program (FIP) cash assistance benefits. At the hearing, the Petitioner indicated that she no longer needed a hearing regarding these benefits as she understood why her FIP case closed and her MA was corrected and reinstated.
2. The Department reduced the Petitioner's FAP benefits due to her utility expenses being changed. The Petitioner pays for non-heat electricity and for a phone, but does not pay for heat.
3. The Petitioner's monthly rent is \$ [REDACTED] and was recently reduced from \$ [REDACTED]. The Department used rent of \$ [REDACTED] in calculating the Petitioner's benefits.
4. The Petitioner requested a timely hearing on December 22, 2015, protesting the Department's actions.

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, the Petitioner withdrew her hearing request regarding her MA Benefits, which were reinstated at the time of the hearing, and her FIP benefits, which were closed due to her child graduating high school; leaving no dependent child in the household.

The Petitioner is an ongoing recipient of FAP benefits and requested a hearing because her FAP benefits had been reduced. The Department's determination regarding Petitioner's FAP benefit calculations were reviewed at the hearing. The Department correctly determined the Petitioner's monthly income to be \$ [REDACTED] based upon Supplemental Security Income (SSI) received and a \$ [REDACTED] monthly supplement, State SSI Payment (SSP) benefits provided to her by the Department.

Changes in the Department policy caused, in some cases, a reduction in FAP benefits after the removal of the automatic heat and utility standards previously applied to their FAP budgets as is the case in this matter.

Changes to BEM 554 effective October 1, 2014, removed the automatic mandatory heat in utility standard. For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the h/u standard beyond the expiration of the five-month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section. BEM 554(October 1, 2015), p. 15-18.

It was established that the Petitioner does not pay for heating but does pay for her phone, and was given a telephone expense of \$ [REDACTED] and pays for non-heat electricity and was given an allowance for non-heat electricity in the amount of \$ [REDACTED] RFT 255 (October 1, 2015), p. 1. The Department correctly included the Petitioner's non-heat expense and phone expense when calculating her FAP benefits. Previously, the Petitioner had automatically received a heat and utility standard of \$ [REDACTED] which she is no longer eligible to receive as she does not pay for heat. This change (removal of heat

allowance) caused her shelter expenses to be reduced. In addition, the Petitioner reported that her monthly rent decreased to \$ [REDACTED] but the Department continued to use her previous rent amount of \$ [REDACTED] when calculating FAP benefits; and thus, the FAP budget must be recalculated to include the correct rent amount. In recalculating the FAP benefits, the Department shall follow Department policy found in BAM 220 (January 1, 2016), p. 10, as regards when the change in rent should be applied to affect FAP benefits. As mentioned at the hearing, the reduction of the housing expenses and rent is likely to cause a further reduction in the Petitioner's FAP benefits due to the lowering of Petitioner's housing expenses.

Based upon the fact that the Department did not include the correct rent amount, even though a change was properly reported by the Petitioner, it is determined that the Department did not correctly calculate the FAP budget of the Petitioner.

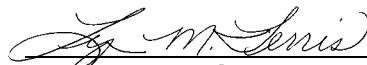
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated the Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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. The Department shall recalculate the Petitioner's FAP benefits in accordance with Department policy, and this Hearing Decision.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: 02/18/2016

LMF/jaf

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:

