

**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.: 16-000229
Issue No.: 3008, 2000
Agency Case No.: [REDACTED]
Hearing Date: February 22, 2016
County: MACOMB-DISTRICT
20 (WARREN)

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 22, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly deny the Petitioner's Food Assistance Program (FAP) application due to net income exceeding the income limit for FAP eligibility?
2. Did the Department properly close the Petitioner's Medical Assistance (MA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At the hearing, the Department established by MA eligibility summaries that the Petitioner's MA case has not closed and is active ongoing; and both of the Petitioner's minor children are eligible for MA; thus, there was no issued to be decided by the undersigned. Exhibit 6.
2. The Petitioner applied for FAP benefits on November 20, 2015. Exhibit 1. At the time of the application, the Petitioner's FAP group had three members; the Petitioner paid a mortgage of \$ [REDACTED] monthly and paid for heat. The Petitioner

receives Retirement, Survivors and Disability Income (RSDI) in the amount of \$ [REDACTED] and his children receive \$384 each. The total group income is \$ [REDACTED] Exhibit 3. The Petitioner did not verify the cost of his homeowner's insurance. The Department searched the tax records to determine the Petitioner's property taxes for him, which it credited as \$ [REDACTED] a month. Exhibit 5.

3. The Department issued a Notice of Case Action on December 3, 2015, effective November 20, 2015, denying the Petitioner's FAP application. Exhibit 5.
4. The Petitioner filed a timely hearing request on January 11, 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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department denied the Petitioner's application for FAP benefits due to his group income of \$ [REDACTED] exceeding the income limit of \$ [REDACTED] for a group of three persons. RFT 250 (October 1, 2015), p.1. Exhibit 4. The FAP budget was reviewed at the hearing, and there were errors found. However, these mistakes did not change the outcome; and it is determined that the Department properly denied the FAP application.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department considers the gross amount of money earned from RSDI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner and his two children compose the FAP group of three persons, and the Petitioner is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income; and there was no evidence presented that he had any dependent care, child support, or medical expenses over \$█. The Petitioner was specifically asked if he paid Medicare Part B premiums; and at the time of the application, it was determined he did not. The Petitioner currently does pay Medicare Part B premiums. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his confirmed three-person group size, the Department properly applied the \$█ standard deduction. RFT 255 (October 2015), p. 1.

In this case, the Department denied the Petitioner's FAP application for exceeding the net income limit. The following facts were confirmed as correct by Petitioner during the hearing, and the FAP budget was reviewed. The Petitioner receives RSDI in the amount of \$█ and his minor children each receive \$█ in RSDI for a total unearned income of \$█. The Petitioner pays a mortgage payment of \$█. The Petitioner also pays for heat and electricity. The Petitioner received and is entitled to a standard deduction off his income of \$█ as his FAP group has three members and a heat and utility allowance of \$█. RFT 255. The FAP budget was reviewed at the hearing; and while there were a few errors discovered, the errors did not change the outcome regarding the net income limit being exceeded. Exhibit B. BEM 554, (October 2015), p. 16-19. BEM 556 (July 1, 2013), pp. 4-5; RFT 255, p. 1.

The Department correctly deducted a standard deduction from the Petitioner's income of \$█ for a group of three persons, leaving adjusted gross income of \$█. Exhibit 4. The Department also incorrectly determined the excess shelter amount to be \$█. The excess shelter is determined by adding rent and the heat and utility allowance and monthly property taxes together to get total housing expenses. The property taxes were researched by the Department and added to the FAP benefit calculation by the Department to assist the Petitioner. The Tax information provided at the hearing showed in 2015 total property taxes of \$█. Exhibit 5. The total taxes are divided by 12 to get the monthly tax amount, which in this case is \$█. Thus, mortgage, heat allowance and taxes total \$█ ($\$█ + \$█ + \text{█} = \$█$).

RFT 255, (October 1, 2015), p.1. At this point, the Department's calculations were already incorrect as it used \$ [REDACTED] as monthly taxes, which was incorrect.

The next step is to deduct one half of the adjusted gross income from the housing expenses. In this case, adjusted gross income is \$ [REDACTED] so half that amount is \$ [REDACTED] ($\$ [REDACTED] - [REDACTED] = \$ [REDACTED]$). The Department did not correctly determine the excess shelter expense of \$ [REDACTED] it should have been \$ [REDACTED]. The excess shelter expense (\$ [REDACTED]) is then deducted from the adjusted gross income (\$ [REDACTED]) to get net income, which in this case is determined to be \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). A FAP group of three persons with net income of \$ [REDACTED] is not entitled to receive FAP benefits as the net income exceeds the net income limit for a group of three persons, which is \$ [REDACTED]. RFT 260, (October 1, 2015), p.6.

In conclusion, although the Department erred, it did not change the outcome as the Petitioner's net income did exceed the net income limit at the time of the application making the Petitioner ineligible for FAP benefits.

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 denied the Petitioner's application for FAP benefits.

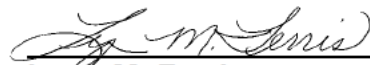
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Petitioner's FAP application due to net income exceeding the net income limit. In addition, after a review of the MA eligibility, the Petitioner and his children are currently eligible to receive MA; and thus, there is no issue regarding MA to be determined.

DECISION AND ORDER

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

The Petitioner's hearing request regarding MA is hereby **DISMISSED**.

IT IS SO ORDERED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/23/2016**

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:

