

**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.: 15-023012
Issue No.: 3008
Agency Case No.: ██████████
Hearing Date: February 22, 2016
County: Oakland-District 3
(Southfield)

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, an in-person hearing was held on February 22, 2016, from Southfield, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly calculate 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. Petitioner was an ongoing recipient of FAP benefits.
2. On December 1, 2015, the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were decreasing to \$86 monthly for January 2016 through July 2016 (Exhibit A, pp. 6-9).
3. On December 7, 2015, the Department sent Petitioner a Quick Note advising him that his FAP benefits were decreasing effective January 2016 because his medical expenses were no longer valid and requesting that he submit any current medical expenses (Exhibit A, p. 10).

4. On December 7, 2015, the Department received Petitioner's written request for a hearing disputing the Department's actions (Exhibit A, p. 2).

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 December 1, 2015 Notice of Case Action advised Petitioner that his FAP benefits were decreasing to \$86 monthly, and Petitioner requested a hearing disputing this decrease. The Department presented a FAP net income showing the calculation of Petitioner's monthly FAP benefits, which was reviewed with Petitioner at the hearing (Exhibit A, pp. 19-20).

FAP benefits are based on a client's household's net income. The first step in determining net income is calculating the household's gross income. In this case, Petitioner's FAP budget showed gross monthly unearned income of \$1287. Petitioner explained that he received \$559 in gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits in \$728 in gross monthly annuity income. Because the total of these two income sources is \$1287, the Department properly calculated Petitioner's gross monthly income.

Next, the Department calculates the client's adjusted gross income. Because Petitioner is over age 65, he is a senior/disabled/veteran (SDV) member of his FAP group. See BEM 550 (October 2015), p. 1. In determining adjusted gross income for FAP groups with one or more SDV members and no earned income, 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 verified out-of-pocket medical expenses in excess of \$35. BEM 554 (October 2015), p. 1.

The Department testified that the only one of these deductions Petitioner was eligible to receive was the standard deduction. Petitioner, who confirmed he was the only member of his FAP group, is eligible for a \$154 standard deduction for a single-member

FAP group. RFT 255 (October 2015), p. 1. Petitioner confirmed that he had no child care or child support expenses. There was no medical expense deduction showing on the budget. The Department explained that it had received two invoices for medical services on November 10, 2015: one with an October 30, 2015 statement/bill date for services rendered in July 2015 and August 2015 totaling \$198.14 and another with a November 2, 2015 statement date for services rendered in August 2015 showing it was past due 61 to 90 days.

Petitioner expressed concerns that the Department was not properly budgeting his out-of-pocket medical expenses. He acknowledged that the medical expenses he submitted on November 10, 2015 were the last ones he submitted to the Department. The Department explained that the expenses reported in November 2015 were applied to Petitioner's December 2015 FAP budget, resulting in Petitioner receiving a FAP allotment of \$194 for December 2015 (Exhibit A, pp. 21-22). Based on the bill date on the submitted invoices, only the \$198 invoice was current. BEM 554, p. 11. The most favorable use of the bills was to apply them to the calculation of Petitioner's December 2015 FAP benefits, resulting in Petitioner's receipt of the highest FAP allotment for a single-member of FAP group that month, rather than averaging the expense over the remaining seven months of the benefits period. See BEM 554, pp. 8-9; RFT 260 (October 2015), p. 1. Petitioner acknowledged that he did not have any ongoing medical expenses resulting in monthly out-of-pocket costs of more than \$35. Therefore, he was not eligible for any deduction for ongoing expenses. Based on the evidence presented, the Department properly concluded that Petitioner was not eligible for any medical expense deduction for his January 2016 ongoing FAP budget. Petitioner is advised that any medical expenses he timely submits may affect future FAP benefits.

When Petitioner's \$1287 monthly gross income is reduced by the \$154 standard deduction, Petitioner has an adjusted gross income of \$1133. This adjusted gross income is reduced by the excess shelter deduction to determine Petitioner's net income. The excess shelter deduction is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay **less** (ii) 50% of the client's adjusted gross income. BEM 556, pp. 4-5.

In this case, the Department applied the \$539 heat and utility (h/u) standard, the most advantageous utility standard available to a client, in calculating Petitioner's excess shelter deduction. BEM 554, pp. 14-21; RFT 255 (October 2015), p. 1. The Department used \$800 as Petitioner's monthly rent. Petitioner advised the Department that his actual rent was \$768 and asked that the budget be updated. However, based on the evidence relied on by the Department, Petitioner had monthly housing expenses totaling \$1339. To determine the excess shelter deduction, the monthly housing expenses of \$1339 are reduced by 50% of the adjusted gross income, or \$566 in this case. This results in an excess shelter deduction of \$773.

Petitioner's adjusted gross income of \$1133 less the \$773 excess shelter deduction results in monthly net income of \$360. Based on a FAP group size of one and net

income of \$360, Petitioner was eligible for gross monthly FAP benefits of \$86. RFT 260 (October 2015), p. 5. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's monthly FAP benefits for January 2016 ongoing.

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 calculated Petitioner's FAP benefits.

DECISION AND ORDER

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



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

Date Signed: **3/01/2016**

Date Mailed: **3/01/2016**

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.

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]