

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

IN THE MATTER OF:



MAHS Reg. No.: 16-000142
Issue No.: 3001
Agency Case No.: [REDACTED]
Hearing Date: February 18, 2016
County: Wayne (15)

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 February 18, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly determined 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 disabled and the only member of her FAP benefit group.
3. Petitioner only reported to MDHHS an obligation for electricity.
4. On an unspecified date, MDHHS determined Petitioner to be eligible for \$16.00 in FAP benefits, effective November 2015, in part, based on an electricity obligation.
5. On [REDACTED], Petitioner requested a hearing to dispute a \$16.00 issuance of FAP benefits.

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 determination of \$16.00. Petitioner thought she should receive more FAP benefits, but could not state why she should receive more.

Petitioner testified that she thought MDHHS began issuing \$16.00 in FAP benefits in November 2015. MDHHS testimony indicated the issuance began in December 2015. MDHHS presented FAP- EDG Net Income Results (Exhibit 1, pp. 1-2). The FAP documents indicated an issuance of \$16 for November 2015. November 2015 will be considered the first FAP benefit month in dispute.

The FAP- EDG Net Income Results and FAP- Excess Shelter Deduction (Exhibit 1, p. 3) are documents showing how MDHHS calculated Petitioner's FAP benefit issuance. During the hearing, Petitioner was asked if she disputed each of the income and expenses factored by MDHHS. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

It was not disputed that Petitioner received \$747.00/month in SSI. MDHHS factored \$747.00 as Petitioner's unearned income.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner was disabled.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded she did not have day care, medical, or child support expenses.

Petitioner's FAP benefit group receives a standard deduction of \$154.00. RFT 255 (October 2015), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$593.00.

MDHHS budgeted \$179.00 in housing expenses. Petitioner conceded the amount to be correct.

MDHHS factored Petitioner had an obligation to pay electricity and no other utilities. Petitioner testified she owns an air conditioner and is responsible for paying the cooling costs of her residence. Petitioner also testified that she pays a telephone obligation. Petitioner testimony conceded that she did not report either obligation to MDHHS.

During the hearing, Petitioner was advised that her testimony equated to a reporting of a cooling and telephone expense obligation. Petitioner's reporting should require MDHHS to factor the expenses in future months. The reporting has no effect on Petitioner's FAP eligibility from November 2015.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. MDHHS cannot be faulted for failing to factor expenses which Petitioner did not report. Thus, MDHHS properly factored Petitioner was only responsible for paying an electricity obligation. The electricity obligation equates to a \$119.00 budget credit (see RFT 255). Petitioner's total shelter credits are \$298.00.

MDHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$2 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$591.00. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance is found to be \$16.00, the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility to be \$16.00, effective November 2015. The actions taken by MDHHS are **AFFIRMED**.



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

Date Signed: **FEBRUARY 25, 2016**

Date Mailed: **FEBRUARY 25, 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:

