



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 8, 2016
MAHS Docket No.: 16-000400
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on February 29, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. Her mother, [REDACTED], appeared as her witness. The Department of Health and Human Services (Department) was represented by [REDACTED], 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. On November 4, 2015, Petitioner applied for FAP benefits.
2. Petitioner receives monthly Supplemental Security Income (SSI) benefits of \$733 and quarterly State SSI Payments (SSP) of \$42 (Exhibit A, pp. 4-5).
3. Petitioner is the sole member of her FAP group.
4. Petitioner pays monthly rent of \$300, which includes all utilities other than telephone (Exhibit A, pp. 2-3).

5. On December 28, 2015, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for \$24 in monthly FAP benefits for November 4, 2015 to November 30, 2015 and \$27 in monthly FAP benefits for December 1, 2015 ongoing (Exhibit A, pp. 8-9).
6. On January 20, 2016, the Department received Petitioner's written request for hearing disputing the Department's calculation of her FAP benefits.

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.

Petitioner requested a hearing disputing the calculation of her FAP benefits. The FAP net income budget for November 2015 showing the calculation of Petitioner's monthly FAP benefits was reviewed with Petitioner at the hearing (Exhibit A, pp. 6-7).

The budget showed gross monthly unearned income of \$747, which the Department testified was the sum of Petitioner's gross monthly SSI income of \$733 and the monthly \$14 in SSP benefits based on her quarterly payments of \$42. See BEM 501 (October 2015), p. 33. Petitioner confirmed she received SSI and SSP benefits in the amounts indicated.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner receives SSI, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (October 2015), p. 1. 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, verified out-of-pocket medical expenses in excess of \$35, and the excess shelter deduction. BEM 554 (October 2015), p. 1; BEM 556 (July 2013), pp. 4-5.

Petitioner, who confirmed she was the only member of her FAP group, is eligible for a \$154 standard deduction for a single-member FAP group, as shown on the budget.

RFT 255 (October 2015), p. 1. Petitioner confirmed that she had no child care or child support. Therefore, the budget properly showed no deduction for those expenses.

The excess shelter deduction is based on a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. In this case, Petitioner confirmed that her rent was \$300, as shown on the excess shelter deduction. (Exhibit A, p. 7). The utility standard that applies to a client's case is dependent on the client's circumstances.

A client is eligible for the mandatory heat and utility (h/u) standard, the most advantageous utility standard available to a client, if (i) the client is responsible for, or contributes towards, heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a home heating credit (HHC) in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the certification month at the time of redetermination; (iv) the client received a low income home energy assistance payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 14-20; RFT 255 (October 2015), p. 1. Petitioner's testimony at the hearing established that she did not meet any of the criteria for receipt of the mandatory h/u standard.

If a client is not eligible for the mandatory h/u standard, she may be eligible for mandatory *individual* standards for non-heat electric, water and/or sewer, telephone, cooking fuel, and/or trash removal, as applicable. BEM 554, pp. 20-23. In this case, Petitioner confirmed that water, sewer, trash removal, and electric were all included in her rent. Therefore, the only utility identified on the budget is the telephone. The telephone standard is \$33, as shown on the excess shelter deduction. RFT 255 (October 2014), p. 1.

The remaining deduction is for medical expenses. The Department must verify an SDV's allowable medical expenses at application and estimate that person's medical expenses for the benefit period based on non-reimbursable portion of current medical bills. BEM 554 (October 2015), p. 11.

In this case, the budget showed no deduction for medical expenses. However, Petitioner testified that she had out-of-pocket medical expenses in excess of \$35. In her application, she indicated that she had medical expenses (Exhibit A, p. 2). The Department admitted it did not request verification of those expenses to determine whether Petitioner was eligible for a medical deduction in the calculation of her FAP benefits. In failing to do so, the Department did not act in accordance with Department policy.

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 Petitioner's FAP benefits for November 4, 2015 ongoing.

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. Recalculate Petitioner's FAP benefits for November 4, 2015 ongoing to include verified allowable medical expenses;
2. Issue supplements to Petitioner for any FAP benefits Petitioner was eligible to receive but did not from November 4, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



ACE/

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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