



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 22, 2016
MAHS Docket No.: 16-000998
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 14, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of 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. In connection with a December 2015 redetermination, Petitioner's eligibility for FAP benefits was reviewed. (Exhibit A, pp. 1-12)
3. Petitioner is employed and reported earning \$765 biweekly on his redetermination. (Exhibit A, p. 10)
4. Petitioner provided two paystubs for the month of December 2015 with his redetermination, each reflecting biweekly pay of \$776.76. (Exhibit A, pp.13-14)

5. Petitioner did not report any housing or utility expenses on the redetermination. (Exhibit A, p. 11)
6. On January 25, 2016, the Department sent Petitioner a Notice of Case Action informing him that effective February 1, 2016, he was approved for FAP benefits in the amount of \$16 monthly. (Exhibit A, pp. 19-22)
7. On January 29, 2016, Petitioner requested a hearing disputing the decrease in his FAP benefits. (Exhibit A, pp. 23-34)

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, Petitioner requested a hearing to dispute the decrease in his FAP benefits. The Department stated that after receiving verification of Petitioner's employment at redetermination, his FAP budget was recalculated. The Department presented a FAP EDG Net Income Results Budget, which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 16-18).

All countable earned and unearned income available to the client and group must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2015), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-8. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2014), pp. 6-7.

The Department concluded that Petitioner had earned income of \$1669 which it testified consisted of his earnings from employment as reported on his redetermination. Specifically, the Department stated that it relied on the paystubs provided and considered \$776.76 paid on December 4, 2015, and \$776.76 paid on December 18, 2015. (Exhibit A, pp. 13-14). Petitioner confirmed that the paystubs relied on by the Department were correct for the month of December 2015, however, Petitioner stated that since that time, his pay has decreased by half as he is not working as much as he was previously. Petitioner stated that he has updated pay information for the month of February 2016, however, this was not provided to the Department until the day of the hearing. Therefore, it will be used to calculate Petitioner's future FAP benefit eligibility. Upon further review and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Petitioner's earned income based on the information provided by Petitioner and available to the Department at the time the redetermination budget was completed.

The deductions to income on the net income budget were also reviewed. Petitioner's group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that Petitioner's earned income deduction was \$334 and there was no evidence presented that he had any out of pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care expenses or child support. Based on the one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2015), p. 1.

In calculating Petitioner's excess shelter deduction, the Department considered a \$33 telephone standard, as Petitioner did not report any housing expenses such as rent or any responsibility to pay other utility expenses on his redetermination. BEM 554, pp. 16-19; RFT 255, p.1. At the hearing, Petitioner confirmed that he does not have a monthly housing or rental expense. Petitioner stated that he contributes to the costs of utilities such as heat and electric on a monthly basis, roughly \$100. Petitioner stated that he pays his mother for a share of the utility costs each month. Petitioner confirmed however, that he had not informed the Department of his responsibility to pay utility costs and did not provide verification of such expenses prior to the hearing. Petitioner was informed that should he provide the Department with the necessary verification of his contribution towards the costs of utilities such as heat and electric, the Department would recalculate his future FAP budget.

After further review, the Department properly reduced Petitioner's total gross income of \$1669 by the \$334 earned income deduction and the \$154 standard deduction, resulting in monthly net income of \$1181. Based on net income of \$1181 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2015), p. 15.

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 the amount of Petitioner's FAP benefits effective February 1, 2016.

DECISION AND ORDER

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



Zainab Baydoun

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

ZB/tlf

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]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

via electronic mail:

[REDACTED]
[REDACTED]
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