



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 25, 2016
MAHS Docket No.: 16-003261
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 April 13, 2016, from Lansing, Michigan. The Petitioner was represented by his mother [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program 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 a recipient of FAP and MA.
2. Petitioner applied for FAP on February 20, 2016.
3. On March 10, 2016, Petitioner requested hearing contesting the closure of FAP benefits and MA benefits.
4. Petitioner has RSDI income of \$ [REDACTED] per month.
5. Petitioner was working as an Uber driver during the time period in question.
6. At hearing the Department stated that QMB benefits were restored and that it was anticipated that QMB benefits would continue.

7. Petitioner abandoned his appeal with regard to Medicaid and QMB benefits.
8. Petitioner provided his 2015 Federal Income tax return that shows \$ [REDACTED] loss for business income.
9. Petitioner had \$ [REDACTED] in gross receipts and \$ [REDACTED] in business expenses for tax year 2015.
10. The Department budgeted \$ [REDACTED] in net self-employment income for Petitioner's March 2016 food budget.
11. Petitioner's FAP benefits were reduced to \$ [REDACTED] per month effective March 1, 2016.

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.

COUNTABLE SELF-EMPLOYMENT INCOME

The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts.

SELF-EMPLOYMENT EXPENSES

Allowed

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).

- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

Note: Allowable expenses for rental/room and board are different than those listed above; see BEM 504, ALLOWABLE RENTAL EXPENSES.

Not Allowed

Do **not** enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments. BEM 502

VERIFICATION SOURCES

**All TOA, except Medicaid
Self-Employment Income**

- Primary source - Income tax return provided:

The client hasn't started or ended self-employment, or received an increase/decrease in income, etc.

The tax return is still representative of future income.

The client filed a tax return. BEM 502

In this case, the Department budgeted \$ [REDACTED] in net self-employment income for the March 2016 benefit month. This was calculated by subtracting \$ [REDACTED] from \$ [REDACTED] total expenses. No detailed explanation showing how the \$ [REDACTED] expense amount was calculated was provided. BRIDGES "Self-employment Pay Details" and "Self-employment Expenses" were provided but they were incomplete and the information in the printouts did not cover the month in question March 2016. Without detailed records outlining how the Department calculated allowable expenses, the undersigned administrative law judge cannot determine if the Department's calculations were consistent 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefits.

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. Provide a detailed accounting of how they calculated Petitioner's net self-employment income for the March 2016 FAP budget.
2. Issue a supplement if Petitioner is found to be entitled to an increase in FAP benefits.

AM/las



Aaron McClintic

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

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

DHHS

[REDACTED]