



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 20, 2016
MAHS Docket No.: 16-005122
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Family Independence Manager, and [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly reduce the Petitioner's Food Assistance Program (FAP) case due to excess income?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of FAP. The Department issued a Notice of Case Action dated [REDACTED], which reduced the Petitioner's FAP benefits to \$ [REDACTED] effective [REDACTED].
2. The Department reduced the FAP benefits due to the Petitioner's countable income, which had increased due to new employment.
3. The Petitioner provided the Department a change report on [REDACTED] advising the Department of a change of address and a paystubs for employment beginning [REDACTED]. Exhibit 2.

4. The Department determined through the Work Number and employment data service that the Petitioner was employed. The Department used gross pays for [REDACTED], in the amount of [REDACTED]; [REDACTED], in the amount of \$ [REDACTED] and [REDACTED], in the amount of \$ [REDACTED]. Exhibit 1.
5. The Petitioner has a group size of three (3) members, and the Department used rent of \$ [REDACTED] monthly as well as a \$ [REDACTED] heat and utility (h/u) standard. Exhibit 3.
6. The Petitioner requested a timely hearing on [REDACTED].

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, the Department reduced the Petitioner's FAP when it determined that Petitioner had started new employment and had earned income which exceeded the FAP income limit for a group size of three (3). The Department initially reduced the FAP benefits and then closed the case due to the income effective [REDACTED]. Exhibit 3. At the hearing, the Department presented an FAP budget, which was reviewed at the hearing. The Petitioner confirmed that she had a group of three (3) members and that she had received earned income used by the Department when calculating her benefits. Exhibit 1.

The Petitioner testified that she had reported a change in her rent to \$ [REDACTED] but no such document existed in the Department's electronic case file. The Petitioner was advised at the hearing to file a new shelter verification of the rent increase. Based upon the fact that the Department did not have information regarding the new rent amount, it properly use \$ [REDACTED] as rent when calculating the FAP benefits.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2014), pp. 1-4. The Department considers the gross amount of money earned from employment in

the calculation of earned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group consists of three (3) members. BEM 550 (February 2014), pp. 1-2.

- 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 2014), p. 1; BEM 556 (July 2013), p. 3.

The budget for [REDACTED] used earned income of \$ [REDACTED] for a group of three (3) persons. The Department used the last 30 days of paystubs. In calculating adjusted gross income, the Petitioner is entitled to a standard deduction of \$ [REDACTED] based upon a group size of three (3). RFT 255 (October 2014), p. 1. Earned income is also reduced by 20 percent as the Department is required to credit earnings with an earned income deduction. An earned income deduction was also applied to the Petitioner's income resulting in earned income deduction of \$ [REDACTED]

The Petitioner is paid weekly. Department policies are found in BEM 505 and require that the average weekly or biweekly check be determined by adding the checks together and dividing by number of checks. Once this amount is determined it is either multiplied by 2.15, if the checks are earned bi-weekly, or 4.3 if the checks are earned weekly.

In addition, the Department correctly determined earned income. Using the three checks issued to Petitioner in [REDACTED], in the amount of \$ [REDACTED], in the amount of \$ [REDACTED] and [REDACTED], in the amount of \$ [REDACTED] the checks total \$ [REDACTED]. The gross income for the month is $\$ [REDACTED] \div 3 = \$ [REDACTED] \times 4.3 = \$ [REDACTED]$. Thus, the Department using paystubs properly calculated earned income for [REDACTED]. Exhibit 1. The next step requires that the earned income deduction of 20 percent of earned income and the standard deduction are deducted from the income total, ($\$ [REDACTED] \times 20$ percent = \$ [REDACTED]). Once the earned income deduction and the standard deduction are deducted the adjusted gross income is \$ [REDACTED]

The next step requires that the excess shelter deduction be determined. All of the housing expenses are first added together, which in this case is the total of rent in the amount of \$ [REDACTED] and \$ [REDACTED] h/u standard for a total of \$ [REDACTED]. RFT 255 (October 1, 2014), p. 1. One half of the adjusted gross income of \$ [REDACTED] is then deducted from the total housing expenses to get the excess shelter deduction, which in this case is \$ [REDACTED] ($\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$ [REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1. The excess shelter deduction is then subtracted from the

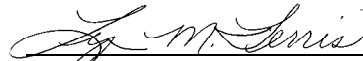
adjusted gross income leaving monthly income (net) after deductions of \$ [REDACTED]. An FAP group of three (3) persons with a net income of \$ [REDACTED] is entitled to FAP benefits of \$ [REDACTED] per month. RFT 260 (October 1, 2015), p. 10.

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 reduced the Petitioner's FAP due to an increase in income.

DECISION AND ORDER

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

LMF/jaf



Lynn M. Ferris
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]

Petitioner

[REDACTED]

cc:

[REDACTED]