



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: June 24, 2016
MAHS Docket No.: 16-005090
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on June 14, 2016, from Sault Ste. Marie, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], General Services Program Manager. [REDACTED], Eligibility Specialist, appeared as a witness for the Department.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-48. The additional documentation Petitioner brought to the hearing was not admitted as an exhibit because it was not information available to the Department at the time of the February 19, 2016, case action and further was not available to the Department prior to the filing of this hearing request on March 24, 2016. Specifically, the completed Mid-Certification Contact Notice was date stamped as being submitted to the Department on March 29, 2016.

ISSUE

Did the Department properly calculate Petitioner's monthly Food Assistance Program (FAP) monthly allotment?

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 is an ongoing recipient of FAP.

2. On January 4, 2016, Petitioner submitted a completed Redetermination form to the Department. In part, Petitioner reported that his social security income is \$ [REDACTED] and his wife's social security income is \$ [REDACTED]. (Exhibit A, pp. 31-36)
3. On February 3, 2016, the Department received a verification that Petitioner's monthly lot rent is \$ [REDACTED]. (Exhibit A, p. 15)
4. On February 19, 2016, a Notice of Case Action was issued to Petitioner stating the FAP monthly allotment would be \$ [REDACTED] effective April 1, 2016 through March 31, 2017. (Exhibit A, pp. 5-8)
5. On March 24, 2016, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 4)

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (October 1, 2015), pp. 1. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2015), p. 12. Heat and utility expenses can also be included as allowed by policy. The Department allows only the utilities for which a client is responsible to pay. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. However, FAP groups who have received a home heating credit (HHC) in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the h/u standard. FAP groups who have 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 application month or in the immediately preceding 12 months prior to the application month are eligible for the h/u standard. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of

other utility expenses are eligible for the individual utility standards. The Department is to use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23. Verified allowable medical expenses are also considered in the FAP budget. BEM 554, p. 8-12.

The Department counts the gross benefit amount of current Social Security Administration (SSA) issued Retirement Survivors and Disability (RSDI) and Supplemental Security Income (SSI) as unearned income. BEM 503, (October 1, 2015), pp. 28 and 32.

As of October 1, 2015, the FAP standard deduction for a group size of 1-3 persons is \$154.00. The applicable full heat and utility standard (h/u standard) as of October 1, 2015, is \$539.00. RFT 255, (October 1, 2015), p. 1.

In this case, Petitioner is an ongoing recipient of FAP whose case was due for Redetermination. On January 4, 2016, Petitioner submitted a completed Redetermination form to the Department. (Exhibit A, pp. 31-36) The result of this re-determination was a reduction to the monthly FAP allotment. On February 19, 2016, a Notice of Case Action was issued to Petitioner stating the FAP monthly allotment would be \$ [REDACTED] effective April 1, 2016 through March 31, 2017. (Exhibit A, pp. 5-8)

Petitioner testified that his actual living expenses increased when the Department decreased the FAP allotment based on assertion that his shelter expense decreased. It was uncontested that Petitioner's lot rent decreased from \$ [REDACTED] to \$ [REDACTED] when he had to move to the new park. As discussed during the hearing proceedings, even though Petitioner's actual utility expenses increased when he moved to the new park, the BEM 554 policy directed that the same \$ [REDACTED] full heat and utility standard continue to be utilized in Petitioner's FAP budget. The Department does not utilize actual monthly utility expenses in the FAP budget. The testimony indicated Petitioner previously qualified for the full heat and utility standard and continued to qualify for the full heat and utility standard when he moved to the new park. When a FAP group is eligible for the full heat and utility standard, they are not eligible for any of the other individual utility standards.

The FAP budgeting documentation submitted by the Department establishes that Petitioner's FAP monthly allotment was correctly calculated based on the information available at that time. For example, the budgeted total income of \$ [REDACTED] was based on Petitioner's report of that his social security income is \$ [REDACTED] and his wife's social security income is \$ [REDACTED]. (Exhibit A, pp. 13 and 34) Further, the budgeted housing expense of \$ [REDACTED] was based on the submitted verification that Petitioner's monthly lot rent is \$ [REDACTED]. (Exhibit A, pp. 15 and 16) It was uncontested that Petitioner's FAP group size is 2 persons. The Department properly utilized the applicable \$ [REDACTED] standard deduction for the group size of 2. (Exhibit A, p. 13; RFT 255, p. 1) It was uncontested that Petitioner qualified for and properly received the full heat and utility standard of \$ [REDACTED]. (Exhibit A, p. 16) Accordingly, Petitioner was not eligible to

receive the other individual utility standards under the above cited BEM 554 policy. There was no evidence that Petitioner had any earned income, self-employment income, current medical expenses, dependent care expenses, or received child support payments. (See Exhibit A, pp. 6 and 12-13) For example, Petitioner and his wife had full Medicaid coverage and their Medicare Part B premiums were being paid through the Medicare Savings Program. (Department Testimony; Exhibit A, pp. 22-23 and 30)


As discussed during the hearing proceedings, if the Department has received more current information regarding allowable expenses or deductions for the FAP budget, this should be considered for determining Petitioner's ongoing FAP eligibility and monthly allotment. For example, if the Department more recently verified Petitioner's spouse's monthly social security income is only \$ [REDACTED] this should be updated for the current and ongoing FAP budgets. (See Exhibit A, p. 28) Similarly, any newer information in the more recent Mid-Certification Contact Notice should be considered for the current and ongoing FAP benefit case.

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 Petitioner's monthly FAP monthly allotment.

DECISION AND ORDER

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

CL/mc



Colleen Lack
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]