



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: [REDACTED]
MAHS Docket No.: 16-007826
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist worker.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective [REDACTED]?

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 benefits.
2. Petitioner's FAP group consists of herself and her daughter (group size of two).
3. Petitioner's FAP group receives employment income (earned income) and unearned income.
4. The FAP's group unearned income consists of the following: (i) \$733 in monthly Supplemental Security Income (SSI) income; (ii) \$14 monthly average in State SSI

Payments (SSP); and (iii) her daughter receives a monthly Family Independence Program (FIP) allotment of \$158. See Exhibit A, pp. 9-13 and 20.

5. On [REDACTED], Petitioner was hired into a new job and the Department issued her a New Hire Client Notice (new hire) notifying her to complete the document by [REDACTED]. See Exhibit A, pp. 6 and 8.
6. On [REDACTED], Petitioner submitted the new hire and indicated the following: (i) she is paid \$9.15/hourly; (ii) she is paid biweekly; and (iii) she works 5 hours per day. See Exhibit A, p. 8.
7. Petitioner works four days a week, which equates to 20 hours of work a week.
8. As a result of Petitioner's employment, the Department processed her FAP eligibility, which resulted in her FAP benefits being reduced from \$357 to \$22 effective [REDACTED]. See Exhibit A, pp. 1 and 14.
9. On [REDACTED], Petitioner filed a hearing request, protesting the FAP decrease and her Medical Assistance (MA) benefits. See Exhibit A, p. 2-3.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

As a preliminary matter, Petitioner also requested a hearing in which she disputed her MA benefits. See Exhibit A, pp. 2-3. Shortly after commencement of the hearing,

Petitioner testified that she is no longer disputing her MA benefits and the issue has been resolved. As such, Petitioner's MA hearing request is DISMISSED. See BAM 600 [REDACTED], pp. 1-6.

FAP allotment

It was not disputed that the certified group size is two and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented the [REDACTED] FAP budget for review. See Exhibit A, p. 14.

First, the Department calculated Petitioner's earned income to be \$983, which she disputed. See Exhibit A, p. 14. The calculation of Petitioner's gross income was based on the new hire she submitted on [REDACTED]. See Exhibit A, p. 8. Petitioner indicated the following in the new hire: (i) she is paid \$9.15/hourly; (ii) she is paid biweekly; and (iii) she works 5 hours per day. See Exhibit A, p. 8. Moreover, both parties acknowledged that Petitioner works four days a week, which equates to 20 hours of work a week. However, the undersigned reviewed the FAP budget and discovered the calculation of the gross earned income was based on Petitioner working five days a week (25 hours a week) and not four days a week (20 hours a week), as agreed by both parties. See Exhibit A, p. 14.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (April 2016), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 8. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 8.

Based on the foregoing information, the Department did not act in accordance with Department policy when it improperly calculated Petitioner's gross earned income in accordance with Department policy. See BEM 505, pp. 1-8. In the present case, the Department acknowledged that it erred in the calculation of Petitioner's earned income and that it would recalculate the earned income to reflect Petitioner working four days a week (20 hours a week). As such, the Department is ordered to recalculate Petitioner's earned income effective [REDACTED].

Second, the Department calculated Petitioner's gross unearned income to be \$905. See Exhibit A, p. 14. This amount consisted of the following: (i) \$733 in monthly SSI income; (ii) \$14 monthly average in SSP payments; and (iii) her daughter's receipt of FIP allotment in the amount of \$158. See Exhibit A, pp. 9-13 and 20 and see BEM 503 (April 2016), pp. 14-15 and 28-33. The undersigned finds that the Department properly calculated Petitioner's unearned income in accordance with Department policy. See BEM 503, pp. 14-15 and 28-33.

Third, the Department properly applied the \$154 standard deduction applicable to Petitioner's group size of two. RFT 255 (██████████), p. 1 and Exhibit A, p. 14. Petitioner also did not dispute that the dependent care, medical, and child support deductions were calculated as zero. See Exhibit A, p. 14.

Fourth, the Department also presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is \$650. See Exhibit A, p. 16. Petitioner did not dispute this amount. Moreover, the Department also provided Petitioner with the \$539 mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$539 amount. See Exhibit A, p. 16; BEM 554 (██████████), pp. 14-16; and RFT 255, p. 1.

Nonetheless, because the Department miscalculated Petitioner's earned income, the Department is ordered to recalculate Petitioner's FAP allotment effective June 1, 2016, in accordance with Department policy.

DECISION AND ORDER

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 improperly calculated Petitioner's FAP allotment effective ██████████.


Accordingly, the Department's FAP 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 budget including her earned income, effective ██████████
██████████;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from ██████████, ongoing; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's **MA** hearing request is **DISMISSED**.

EJF/hw



Eric J. Feldman
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 [REDACTED]; 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]