



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: July 22, 2016
MAHS Docket No.: 16-008118
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 telephone hearing was held on July 13, 2016, from Detroit, Michigan. The Petitioner was represented by LaShawnda Simpson (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment for June 2016?

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 six household members.
3. Petitioner receives employment income (earned income).
4. On [REDACTED], Petitioner submitted a semi-annual contact report (contact report) and included four pay stubs with the submission of her contact report. See Exhibit A, pp. 12-15.

5. As a result, the Department processed her FAP eligibility, which resulted in the Department calculating her gross earned income to be \$2,946. See Exhibit A, p. 7.
6. For June 2016, Petitioner received a monthly FAP allotment of \$328. See Exhibit A, p. 7.
7. On [REDACTED] Petitioner filed a hearing request, protesting her FAP allotment. See Exhibit A, p. 2.

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 the present case, Petitioner testified that she was only disputing her FAP allotment for June 2016. As such, the undersigned only reviewed the FAP budget from June 2016 in the present matter. See Exhibit A, pp. 7-8.

First, it was not disputed that the certified group size is six and that no group members were senior/disabled/disabled veteran (SDV) members.

Second, the Department calculated Petitioner's gross earned income to be \$2,946, which she disputed. See Exhibit A, p. 7. The calculation of Petitioner's gross income was based the following four pay stubs she submitted: (i) pay date of [REDACTED], with a gross pay of \$679.40 (overtime included); (ii) pay date of [REDACTED] with a gross pay of \$726.80 (overtime included); (iii) pay date of [REDACTED], with a gross pay of \$632 (no overtime); and (iv) pay date of [REDACTED], with a gross pay of \$703.10 (overtime included). See Exhibit A, pp. 12-15. Converting the above earnings to a standard monthly amount, results in a total income of \$2,946. See Exhibit A, p. 7.

In response, Petitioner argued and/or made the following assertions: (i) she disputed the calculation of the gross income; (ii) she reported a decrease of \$200 in income in the contact report; (iii) the pay stubs submitted accurately reflected her income; and (iv) she was unemployed for one week and her work was shut-down for one week (July 2016).

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.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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.

Based on the foregoing information and evidence, the undersigned finds that the Department properly calculated the Petitioner's gross earned income based on the pay stubs she submitted on [REDACTED]. Petitioner acknowledged that the pay stubs accurately reflected her pay. Moreover, the undersigned finds that the Department properly included the overtime pay in her gross income as three of the four pay stubs included overtime. See Exhibit A, pp. 12-15 and BEM 505, p. 5 (Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts). As such, the undersigned finds that Petitioner's gross earned income is \$2,946 (total average of the four pay checks is \$685, multiplied by the 4.3 equation for weekly income in order to convert the income to a standard monthly amount, results in the gross income of \$2,946 (rounded-up)). See BEM 505, p. 8.

Then, Petitioner's gross countable earned income is reduced by a 20 percent earned income deduction. See BEM 550 (October 2015), p. 1. This results in Petitioner's post earned income deduction amount to be \$2,356 (\$2,946 total income minus \$590 (20% of the total income)). See Exhibit A, p. 7.

Next, the Department applied the \$225 standard deduction applicable to Petitioner's group size of six. RFT 255 (October 2015), p. 1. Petitioner also did not dispute that the dependent care and medical deductions were calculated as zero. See Exhibit A, p. 7. However, the Department provided Petitioner with a child support deduction of \$71.56. See Exhibit A, p. 7. See BEM 505, pp. 4-5. The Department testified, though, there has not been any child support paid out since in or about September 2015, and this calculation appeared to be in error. Nevertheless, the calculation of the child support deduction was to the benefit of the Petitioner and the Department included that amount at the time it processed her FAP eligibility. Therefore, the undersigned finds that the June 2016 budget includes the child support deduction.

Once the Department subtracts the \$225 standard deduction and \$71.56 child support deduction, this results in an adjusted gross income of \$2,059. See Exhibit A, p. 7.

Also, the Department presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is \$560. See Exhibit A, p. 29. 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. 29; BEM 554 (June 2016), pp. 14-16; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$1,099. See Exhibit A, p. 29. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,059 adjusted gross income. Fifty percent of the adjusted gross income is \$1,029. See Exhibit A, p. 29. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$70. See Exhibit A, p. 29.

Finally, the Department subtracts the \$2,059 adjusted gross income from the \$70 excess shelter deduction, which results in a net income of \$1,989. See Exhibit A, pp. 7-8. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be \$328 for [REDACTED] RFT 260 (October 2015), p. 25.

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 acted in accordance with Department policy when it properly calculated Petitioner's FAP allotment to be \$328 for [REDACTED].

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

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 (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]

Petitioner

[REDACTED]