



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 29, 2016  
MAHS Docket No.: 16-008380  
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, a telephone hearing was held on July 20, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED], mother. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager (FIM).

During the Hearing Proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-58.

### **ISSUE**

Did the Department properly deny Petitioner's application for the Food Assistance Program (FAP) and Child Development and Care (CDC) due to income in excess of program limits?

### **FINDINGS OF FACT**

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

1. On April 19, 2016, Petitioner applied for FAP and CDC. (Exhibit A, pp. 5-42)
2. On May 4, 2016, the telephone interview with Petitioner was completed. (Exhibit A, p.1)

3. Verification of Petitioner's income from employment was submitted. (Exhibit A, pp. 43-47)
4. The child support income was verified. (Exhibit A, pp. 48-50)
5. For FAP, the Department determined that the household countable net monthly income of \$ [REDACTED] exceeded the applicable net income limit of \$ [REDACTED]. (Exhibit A, pp. 51-52)
6. For CDC, the Department determined that the household's total countable monthly income of \$ [REDACTED] exceeded the applicable income limit of \$ [REDACTED]. (Exhibit A, p. 54)
7. On May 4, 2016, a Notice of Case Action was issued to Petitioner stating CDC and FAP were denied due to income in excess of program limits. (Exhibit A, pp. 55-58)
8. On June 16, 2016, Petitioner filed a hearing request contesting the Department's actions. (Exhibit A, pp. 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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

For FAP, the group must have income below the net income limit. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, October 1,

2015, p. 1. For a group size of three, the FAP standard deduction is \$154.00. RFT 255, October 1, 2015, p. 1.

For FAP, 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.

For a group size of three, the FAP net income limit is \$1,675. RFT 250, October 1, 2015, p. 1.

For CDC, the Department uses the gross (before deductions) countable, monthly income to determine the amount the department will pay towards the group's child care costs. BEM 525, April 1, 2016, p. 1. If the program group does not qualify for one of the categorically eligible groups, the Department determines eligibility for the income-eligible group. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group; see program group definition in BEM 205. In order to enter the CDC program, the family's gross monthly income cannot exceed the \$15.00 flat-rate family contribution for their family group size. Flat-rate family contributions are per child per biweekly pay period; see RFT 270. BEM 703, April 1, 2016, p. 15. For a group size of three, the maximum gross monthly income is \$1,990, for the \$15.00 flat-rate family contribution for their family group size. RFT 270, January 1, 2016, p. 1.

The Department will determine a standard monthly amount for each income source used in the budget. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. Weekly income is multiplied by 4.3. Amounts received every two weeks are multiplied by 2.15. Amounts received twice per month are added. This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505, April 1, 2016, p. 8.

Petitioner's mother testified that Petitioner is a single mom and is a very hard worker. It was described how Petitioner is doing the best she can for the children, but cannot get any help. There was a previous negative experience with a poor day care, but now the children are in a good day care. Rent and day care take about all of the monthly income. The CDC is the biggest concern as this relates to the safety of the children. Petitioner's mother disagrees with the Department policy not considering expenses like rent and utilities in determining CDC income eligibility. (Mother Testimony)

This Administrative Law Judge must review the Department's action under the existing Department policies and has no authority to change or make exceptions to the Department policies. Under the above cited BEM policies, the Department properly determined that Petitioner's family was not eligible for FAP or CDC based on income in excess of program limits as described below.

The Department utilized the available income verifications, which showed averaged earned income of \$ [REDACTED] and child support of \$ [REDACTED]. (Exhibit A, pp. 43-50)

For FAP, the total income of \$ [REDACTED] was reduced by \$ [REDACTED] for the earned income deduction and \$154 for the standard deduction. (Exhibit A, pp. 51-52) After considering the shelter allowable heat and utility expenses, the income was reduced by an additional \$ [REDACTED] excess shelter deduction. (Exhibit A, pp. 51-53) In the end, the calculated net income of \$ [REDACTED] exceeded the applicable FAP net income limit of \$1,675 for the group size of three. (Exhibit A, pp. 51-53)


For CDC, the total countable income of \$ [REDACTED] exceeded the applicable CDC income limit of \$1,990 for a group size of three. (Exhibit A, p. 54)

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 denied Petitioner's application for the FAP and CDC due to income in excess of program limits.

### **DECISION AND ORDER**

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

CL/mc

  
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**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]

**Authorized Hearing Rep.**

[REDACTED]