



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 2, 2016
MAHS Docket No.: 16-010709
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared by telephone and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Hearing Facilitator, participating from the Department's Mt. Clemens office.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for the certification period beginning July 1, 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. On May 26, 2016, Petitioner submitted a completed redetermination to the Department. In her redetermination, Petitioner identified her household income as follows: ██████████ in monthly Retirement, Survivors and Disability Insurance (RSDI) benefits; ██████████ in monthly Supplemental Security Income (SSI) benefits; and ██████████ in quarterly State SSI Payment (SSP) benefits. Petitioner also indicated that she had no change in her monthly rent or address and that she had not received a home heating credit (HHC) exceeding ██████████ in the preceding 12 months or State

Emergency Relief (SER) or Michigan Energy Assistance Program (MEAP) assistance exceeding █████ in the preceding 12 months. (Exhibit A, pp. 2-7.)

3. On June 1, 2016, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for █████ in monthly FAP benefits for July 1, 2016 to June 30, 2018 (Exhibit B, pp. 8-11).
4. On July 26, 2016, the Department received Petitioner's request for hearing disputing her FAP amount.

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.

Petitioner requested a hearing disputing the calculation of her FAP benefits for July 2016 ongoing. The Department presented a FAP net income budget showing the calculation of Petitioner's FAP benefits that was reviewed with Petitioner at the hearing (Exhibit A, pp. 13-14).

The budget showed gross monthly unearned income of █████, which the Department testified was the sum of Petitioner's gross monthly RSDSI income of █████, SSI income of █████, and the monthly █████ in SSP benefits based on her quarterly payments of █████. The Department properly considered █████ in SSP benefits in calculating Petitioner's monthly income. BEM 503 (April 2016), p. 33. Based on this income, which Petitioner verified, the Department properly calculated Petitioner's gross income.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner receives SSI, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (October 2015), p. 1. For FAP groups with one or more SDV members and no earned income, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, verified out-of-pocket medical expenses in excess of █████, and the excess shelter deduction. BEM 554 (June 2016), p. 1; BEM 556 (July 2013), pp. 4-5.

Petitioner, who confirmed she was the only member of her FAP group, was eligible for a [REDACTED] standard deduction for a single-member FAP group, as shown on the budget. RFT 255 (October 2015), p. 1. Petitioner confirmed that she had no child care, child support, or out-of-pocket medical expenses in excess of [REDACTED]. Therefore, the budget properly showed no deduction for those expenses. When Petitioner's [REDACTED] unearned income is reduced by the [REDACTED] standard deduction, her adjusted gross income for FAP purposes is [REDACTED].

The excess shelter deduction is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay **less** (ii) 50% of the client's adjusted gross income, which in this case, is [REDACTED]. BEM 556, pp. 4-5.

In this case, the Department presented an excess shelter deduction budget (Exhibit C, p. 15) showing that it determined that Petitioner was not eligible for an excess shelter deduction based on her monthly rent of [REDACTED] and the [REDACTED] utility standard for telephone. The Department explained that, based on Petitioner's statements in her redetermination that there was no change in her rent or address, it used her previously reported rent of [REDACTED]. Petitioner confirmed her rental amount.

The utility standard that applies to a client's case is dependent on the client's circumstances. A client is eligible for the heat and utility (h/u) standard, the most advantageous utility standard available to a client, if (i) the client is responsible for, or contributes towards, heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a HHC in an amount greater than [REDACTED] in the application month or in the immediately preceding 12 months prior to the certification month at the time of redetermination; (iv) the client received a low income home energy assistance payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than [REDACTED] in the certification month or in the immediately preceding 12 months prior to the certification month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 14-20; RFT 255 (October 2015), p. 1.

Petitioner had previously reported to the Department that her rent included all utilities other than telephone. In her redetermination, Petitioner indicated that she had not received a HHC benefit or MEAP or SER assistance greater than [REDACTED] in the preceding 12 months (Exhibit A, p. 7). The Department confirmed that Petitioner had not received such assistance (Exhibit D, pp. 16-17). Therefore, Petitioner did not meet any of the criteria for receipt of the mandatory h/u standard.

If a client is not eligible for the mandatory h/u standard, she may be eligible for mandatory *individual* standards for non-heat electric, water and/or sewer, telephone, cooking fuel, and/or trash removal, as applicable. BEM 554, pp. 20-23. Based on the circumstances in this case, the only utility standard Petitioner was eligible to receive was the [REDACTED] telephone standard. RFT 255, p. 1.

Because the sum of Petitioner's █████ rent and █████ telephone standard is less than █████ (which is 50% of her adjusted gross income), Petitioner is not eligible for an excess shelter deduction, consistent with the Department's conclusion on the excess shelter deduction budget. Because Petitioner is not eligible for an excess shelter deduction, her adjusted gross income of █████ is also her net income. Based on net income of █████ and a group size of one, Petitioner was eligible for monthly benefits of █████ for July 2016 ongoing. RFT 260 (October 2015), p. 8. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for July 2016 ongoing.

Although Petitioner expressed concerns that she was not timely notified of the decrease in her FAP benefits effective July 2016, the Department presented the Notice of Case Action sent to her on June 1, 2016 notifying her of the change in benefit amount to █████ monthly effective July 1, 2016. Even though timely notice is not required when benefits are approved in connection with a FAP redetermination, the June 1, 2016 notice sent to Petitioner timely notified her of the change in her FAP benefits. BAM 220 (July 2016), pp. 2-5, 11. Petitioner acknowledged receiving the notice.

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 FAP benefits for July 2016 ongoing.

DECISION AND ORDER

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

ACE/tlf



Alice C. Elkin
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]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]