RICK SNYDER GOVERNOR

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

SHELLY EDGERTON



Date Mailed: September 7, 2016 MAHS Docket No.: 16-010783

Agency No.: Petitioner:

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 31, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by hearing facilitator.

ISSUE

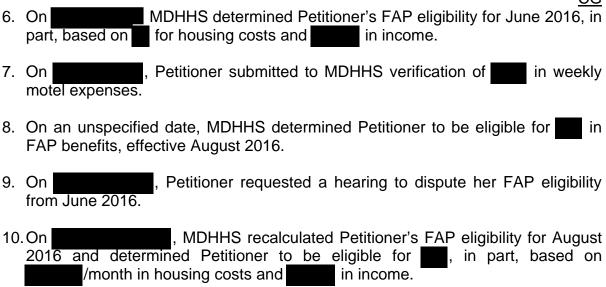
The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 was an ongoing FAP benefit recipient.
- 2. Petitioner was the only member of a FAP benefit group.
- 3. Petitioner had RSDI income of /month.
- 4. In March 2016, Petitioner reported to MDHHS she was living in a motel.
- 5. On MDHHS mailed Petitioner's a Verification Checklist requesting Petitioner's motel costs.





CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute FAP benefits. Petitioner testified she disputed her FAP eligibility from June 2016 through August 2016.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated MDHHS credibly testified the notice accurately included information concerning Petitioner's FAP eligibility for June 2016 and July 2016.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-6) dated

The written notice affected Petitioner's FAP eligibility for August 2016. MDHHS testimony indicated the notice dated

Was the second notice sent to Petitioner concerning FAP eligibility for August 2016. MDHHS testimony also indicated the notice corresponded to Petitioner's ultimate FAP benefit issuance for August 2016.

The presented Notices of Case Action included a budget summary for all FAP amounts factored by MDHHS. During the hearing, Petitioner was given an opportunity to dispute all budgeted income and expenses. The below analysis incorporates Petitioner's responses and FAP budget policies from BEM 556. Distinctions between Petitioner's eligibility for June 2016, July 2016, and August 2016 will be noted.

For all 3 disputed benefit months, MDHHS factored Petitioner's RSDI income of /month. Petitioner's hearing request alleged she did not receive RSDI income for 2 months. During the hearing, Petitioner was asked why she did not receive RSDI for 2 months. Petitioner responded she twice had to use her entire RSDI benefit to pay off a short-term loan. For purposes of this decision, Petitioner's testimony will be accepted as fact.

Using income to pay off a loan does not justify excluding income from a FAP benefit determination. It is found MDHHS properly budgeted Petitioner's income to be month.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner was disabled.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner did not allege having any child care, or dependent care expenses. MDHHS credited Petitioner for a medical expense, beginning August 2016. Presumably, the credit was for a Medicare premium of and application of a copayment.

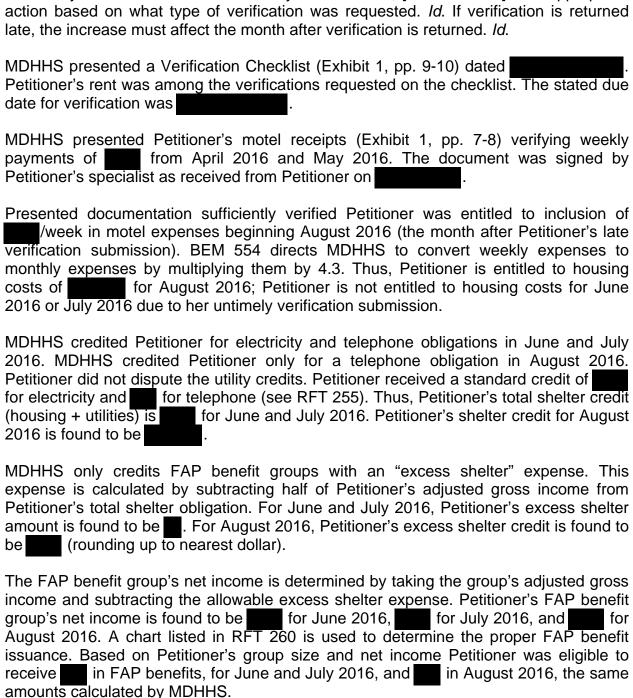
Petitioner's FAP benefit group receives a standard deduction of COCTONDER (October 2015), p. 1. MDHHS lowered the deduction to COCTONDER (Deginning July 2016 (see RFT 255 (July 2016), p. 1). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be COCTONDER (Deginning July 2016 (see RFT 255 (July 2016), p. 1). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income is found to be COCTONDER (Deginning July 2016 (see RFT 255 (July 2016), p. 1). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income is found to be COCTONDER (Deginning July 2016). Petitioner's adjusted gross income for July 2016 is found to be COCTONDER (Deginning July 2016).

It was not disputed Petitioner reported ____/week in motel costs to MDHHS in March 2016. MDHHS factored Petitioner's housing expenses to be _____for June and July 2016. MDHHS factored Petitioner's housing expenses to be ______for August 2016.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2016), p. 1. [For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. *Id.*, p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3.

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[MDHHS is to] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (April 2016), p. 4. [For benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* If necessary verification is not returned by the due date, [MDHHS is to] take appropriate action based on what type of verification was requested. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*



DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility for June 2016, July 2016, and August 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw

Christian Gardocki

Administrative Law Judge for Nick Lyon, Director

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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**

Petitioner