



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: October 10, 2016
MAHS Docket No.: 16-012545
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 3, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's spouse testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's 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. On [REDACTED], Petitioner applied for FAP benefits.
2. Petitioner was a member of a 3-person household and FAP benefit group.
3. Petitioner's spouse received [REDACTED]/week in gross employment income.
4. Petitioner received at least [REDACTED]/month in child support income.

5. On [REDACTED] MDHHS determined Petitioner was ineligible for FAP benefits, in part, based on employment income of [REDACTED]/month and child support income of [REDACTED]/month.
6. On [REDACTED], Petitioner requested a hearing to dispute the denial of FAP benefits.

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 a denial of an application for FAP benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2). The notice stated Petitioner was denied FAP benefits due to excess income.

Petitioner testified she recently injured herself and only needs temporary help until she can return to work. Petitioner's spouse testified he has to work the equivalent of two full-time jobs in order to support his family. The testimony was sincere and appreciated, however, neither Petitioner's injury nor her husband's hard work are factors in the FAP determination.

MDHHS presented various FAP-budget pages (Exhibit 1, pp. 3-6) listing all budget factors. During the hearing, Petitioner was asked about each budget factor. BEM 556 details the procedures for determining FAP eligibility. A FAP determination begins with a consideration of the group's income.

MDHHS presented a history of Petitioner's spouse's employment income (Exhibit 1, pp. 7-11). MDHHS testimony credibly indicated that Petitioner's spouse's weekly pays from [REDACTED], were factored. Petitioner's spouse received [REDACTED] in gross wages for each weekly pay factored by MDHHS.

MDHHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3 (see BEM 505 (April 2016), p. 8). Multiplying Petitioner's spouse's weekly gross income by 4.3 results in a monthly income of [REDACTED], the same amount of income factored by MDHHS.

MDHHS credits clients with a 20% employment income deduction. Application of the deduction results in countable employment income of [REDACTED] (dropping cents).

MDHHS also factored Petitioner's child support income. MDHHS testimony indicated Petitioner's last 90 days (before her application) of child support income was factored.

[For child support income, MDHHS is to] use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (April 2016), p. 4. [MDHHS is to] include the current month if all payments expected for the month have been received. *Id.* Do not include amounts that are unusual and not expected to continue. *Id.*

MDHHS presented a history of Petitioner's child support income (see Exhibit 1, p. 12). The history listed Petitioner received [REDACTED] in child support income for April 2016 and May 2016. Petitioner received [REDACTED] in June 2016. The average of Petitioner's child support income from April 2016 through June 2016 is [REDACTED] (dropping cents).

Petitioner testified she received [REDACTED]/week in child support income. Petitioner did not present evidence to support her testimony.

Based on presented evidence, it is found MDHHS properly determined Petitioner's child support income to be [REDACTED]/month. Adding Petitioner's child support to her spouse's countable employment income results in a running income total of [REDACTED].

[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 \$35 for each SDV group member(s) and an uncapped excess shelter expense. There was no evidence that Petitioner's FAP group included any SDV members.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care or child support expenses. Despite Petitioner's concession, MDHHS inexplicably factored a [REDACTED]/month child support expense. For purposes of this decision, it will be assumed that the expense was proper making Petitioner's countable income total to be [REDACTED] (dropping cents).

MDHHS did not factor that Petitioner had medical expenses. Petitioner alleged she had medical expenses. Petitioner has two obstacles in contending the failure by MDHHS to factor medical expenses was improper. First, Petitioner is not an SDV member; thus, medical expenses are not countable. Further, Petitioner testimony conceded she did not report medical expenses to MDHHS; MDHHS cannot factor unreported expenses (see BAM 105).

Petitioner's FAP benefit group size justifies a standard deduction of \$154 (see RFT 255). 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 [REDACTED]

MDHHS factored [REDACTED] in monthly housing expenses. Petitioner testimony conceded the amount to be correct.

MDHHS testimony conceded Petitioner was improperly credited with no utility expenses. MDHHS also indicated the error was corrected and resulted in no ultimate change. A corrected shelter expense budget page (see Exhibit 1, p. 6) indicated Petitioner was eventually issued the maximum standard utility credit of [REDACTED] (see RFT 255). Petitioner's total shelter expenses (housing + utilities) are found to be [REDACTED] (rounding to nearest dollar).

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$0.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance is found to be \$0, the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated [REDACTED] [REDACTED] due to excess income. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki

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]