



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: November 7, 2016
MAHS Docket No.: 16-014058
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, an in-person hearing was held on November 2, 2016, from Warren, Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's husband, 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 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 a member of a 4-person FAP benefit group.
3. Petitioner failed to report a condominium fee association obligation to MDHHS.
4. On [REDACTED], MDHHS determined Petitioner was eligible for [REDACTED] in FAP benefits, effective October 2016, in part, without factoring a condominium association fee.

5. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility for October 2016.

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 eligibility, effective October 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 3-4) dated [REDACTED], [REDACTED] the notice stated Petitioner was eligible to receive [REDACTED] in FAP benefits beginning October 2016.

MDHHS presented Petitioner's FAP budget for November 2016 (Exhibit 1, pp. 3-4); the budget calculated a FAP benefit issuance for November 2016 of [REDACTED]. The presented Notice of Case Action included a budget summary which also listed all FAP budget amounts. During the hearing, Petitioner was asked about each budget factor; Petitioner's responses will be incorporated into the below analysis. BEM 556 details the procedures for determining FAP eligibility.

MDHHS factored a gross employment income of [REDACTED]/month. Petitioner testimony conceded the budgeted income to accurately reflect her group's income. MDHHS factors a 20% credit for reported employment income. Petitioner's FAP benefit group's countable earned income is found to be [REDACTED].

It was not disputed Petitioner's son received [REDACTED] month in unearned income. Petitioner's total countable household income is found to be [REDACTED]/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 \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner's son was a SDV member.

Verified countable medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having any such expenses.

Petitioner's FAP benefit group size justifies a standard deduction of [REDACTED] (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 budgeted Petitioner's monthly mortgage of [REDACTED]. Petitioner alleged MDHHS should have also factored her condominium association fees. Testimony from Petitioner and her husband implied the condo association expense was reported and/or verified, but neither could say when.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2016), p. 11. Changes must be reported within 10 days of receiving the first payment reflecting the change.

MDHHS presented Petitioner's Semi-Annual Contact Report (Exhibit 1, pp. 1-2). The reporting document was received by MDHHS on September 13, 2016. The document is presumed to be the most recently submitted reporting document. The document did not list any household expenses, though the document only asked about changes in expenses.

During the hearing, Petitioner's last 3 Redeterminations were checked. The documents went back to November 2015. None of the 3 forms indicated a condo fee expense.

Based on presented evidence, it is found Petitioner failed to report condo fee expenses to MDHHS. Accordingly, MDHHS properly budgeted Petitioner's housing expenses to be [REDACTED]. As discussed during the hearing, Petitioner can report and/or submit proof of her expense to MDHHS for possible credit in a future FAP budget.

MDHHS credited Petitioner with a utility standard of [REDACTED] (see RFT 255). The utility standard incorporates all utilities and is the maximum credit available. Petitioner's total shelter expenses (housing + utilities) are found to be [REDACTED].

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 [REDACTED] (rounding up to nearest dollar).

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 for October 2016 is found to be [REDACTED], 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 determined Petitioner to be eligible for [REDACTED] in FAP benefits for October 2016. 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]