



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 2, 2016
MAHS Docket No.: 16-014616
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 November 2, 2016, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED] [REDACTED] and Eligibility Specialist, [REDACTED] [REDACTED]

PROCEDURAL HISTORY

The record closed at the conclusion of the hearing. The following exhibits were offered and admitted into evidence:

- Department: A--Verification of the Petitioner's income and expenses.
B--June 11, 2016, Redetermination.
C--August 25, 2016, Verification Checklist.
D--September 19, 2016, Verification Checklist.
E-- Additional verification of the Petitioner's income.
F-- September 22, 2016, Notice of Case Action.
G-- Self Employment budget summary.
H-- The Petitioner's Food Assistance Program (FAP) budgets.
I-- Eligibility Summary.

Petitioner: None.

ISSUE

Did the Department properly take action to reduce the Petitioner's monthly Food Assistance Program (FAP) benefit allotment?

FINDINGS OF FACT

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

1. The Petitioner was an ongoing recipient of FAP benefits with a monthly allotment of \$ [REDACTED]
2. On August 1, 2016, the Petitioner submitted a Redetermination with income information for his self-employment with [REDACTED]. The Department could not accept the verification because there was no name on the verification.
3. On August 25, 2016, the Department sent the Petitioner a Verification Checklist requesting proof of income and assets.
4. On September 19, 2016, a manual Verification Checklist was mailed to the Petitioner with three self-employment forms because the Petitioner was inquiring as to what specific type of verification he needed to return.
5. On September 21, 2016, the Petitioner submitted acceptable verification.
6. On September 22, 2016, the Department processed the Petitioner's verification and calculated the Petitioner's FAP budget.
7. On September 22, 2016, the Department sent the Petitioner a Notice of Case Action, informing the Petitioner that his FAP benefit allotment was reduced to \$ [REDACTED] per month.
8. On September 26, 2016, the Department received the Petitioner's written hearing request protesting the reduction in his FAP benefits.

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.

BEM 500 (2016) p. 2, provides that the Department is to enter/consider gross amounts of income when determining benefit eligibility for benefits. A group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. Bridges Eligibility Manual (BEM) 505 (2015).

Additionally, BEM 502 (2016) p. 3, provides that the amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of loss cannot offset any other income except for farm loss amounts. Allowable expenses are the higher of 25% of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

The Department is not to enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

In this case, the Petitioner was protesting that the Department included the fee that he had to pay to [REDACTED] as part of his gross income. The Petitioner argued that the

Department should only count his income minus the [REDACTED] fee and then apply the 25% standard deduction that policy provides for. During the hearing, the Department testified that it had contacted its policy unit for determination of how to count the [REDACTED] fee. The Department testified that the policy unit indicated that the fee was a cost of doing business and could be deducted as an expense. The Petitioner testified that he was not aware of that.

A close review of the evidence in this case indicates that the Petitioner requested that the Department apply the 25% standard deduction to his income when determining his FAP allotment. Departmental policy requires that gross income be counted and the [REDACTED] fee is part of the Petitioner's gross income per the verification the Petitioner submitted. The Petitioner inferred that he might not have opted for the 25% standard deduction had he known that his [REDACTED] could be considered as a deduction against his income. Amounts used as income and as the 25% deduction were not contested and a review of the budgets in evidence indicates that the Department properly calculated the Petitioner's FAP allotment. Therefore, this Administrative Law Judge concludes that the Department acted in accordance with its policy when reducing the Petitioner's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds that the Department acted in accordance with Department policy when it took action to reduce the Petitioner's FAP allotment.

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



SH/nr

Susanne E. Harris
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]