



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: December 6, 2016
MAHS Docket No.: 16-016571
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing was held on [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate the Petitioner Food Assistance Program (FAP) 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. Exhibit 1.
2. In [REDACTED] the Petitioner began receiving Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED]
3. The Department issued a Notice of Case Action dated [REDACTED], changing (increasing) the Petitioner's FAP benefits to \$ [REDACTED]. Previously, the Petitioner's FAP benefits had been \$ [REDACTED]. Exhibit 2.

4. The Department calculated the Petitioner's FAP benefits based upon a group size of two, and unearned income of \$ [REDACTED] and rent of \$ [REDACTED]. The Department also gave the Petitioner a non-heat/electric standard of \$ [REDACTED] and a telephone Standard of \$ [REDACTED]. Exhibit 4. The Department conceded at the hearing that the Petitioner had previously provided her utility bill with her [REDACTED], Redetermination, which demonstrated that she paid for heat.
5. The Petitioner requested a timely hearing on [REDACTED].

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.

In this case, the Department recalculated the Petitioner's FAP benefits after a redetermination. At the redetermination, the Department was provided proof or rent and payment for heating expenses by the Petitioner. The Department conceded at the hearing that the Heat and Utility (h/u) Allowance should have been used when calculating the Petitioner's excess shelter cost, not the non-heat/utility allowance and telephone allowance. The h/u allowance results in a higher expense than that for telephone and non-heat allowance, and thus, will increase the Petitioner's housing expenses in a manner favorable to Petitioner. In addition, when calculating the FAP benefits for [REDACTED], the Department used unearned income of \$ [REDACTED] which previously had not been included as income when calculating FAP benefits. The Petitioner acknowledged that the \$ [REDACTED] in RSDI income was correct. As explained at the hearing, the inclusion of this income resulted in lower benefits as the previous FAP allotment of \$ [REDACTED] included no income in the FAP benefits calculation. Exhibit 2.

As part of its determination of the amount of a FAP allotment, the Department is to include an h/u allowance if verified by the FAP recipient. Department policy provides:

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

- For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following:

- Excess shelter up to the maximum in Reference Tables Manual (RFT) 255.

The h/u standard is \$ [REDACTED] monthly and is a significantly higher deduction than was given to the Petitioner by the Department when calculating her FAP allotment. RFT 255 (October 1, 2015), p. 1. Exhibit 5.

MANDATORY HEAT AND UTILITY STANDARD

The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc.; see Actual Utilities in this item. Do **not** prorate the h/u standard even if the heating/cooling expense is shared.

FAP groups that qualify for the h/u standard **do not** receive any other individual utility standards. Do **not** require verification of the other utility standards if the household is already eligible for the h/u standard.

A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard.

Heat Verification

Verify heating separate from housing costs at application or when a change is reported.

Exception: For groups that have verified that they own or are purchasing the home that they occupy, verify the heat obligation only if questionable.

Heat Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for heating/cooling expenses.
- Collateral contact with the landlord or the heating/cooling provider.

- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification.
- Current lease. BEM 554, (January 1, 2017), pp. 15–17.

Based upon the evidence presented the Department must recalculate the Petitioner's FAP benefits and include the correct excess shelter deduction which is the heat and utility allowance of \$ [REDACTED]

DECISION AND ORDER

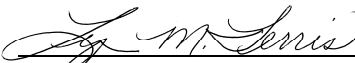
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it failed to include the verified heating expense in the FAP excess shelter calculation.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate the Petitioner's FAP benefits for [REDACTED] and shall include the h/u allowance of \$ [REDACTED] as a housing expense.
2. The Department shall issue an FAP supplement to the Petitioner in accordance with Department policy.

LMF/jaf



Lynn M. Ferris

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]

[REDACTED]