



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 13, 2016  
MAHS Docket No.: 16-016581  
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 December 5, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. 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 the only member of the FAP benefit group.
3. On [REDACTED] Petitioner submitted a Redetermination to MDHHS indicating no ongoing medical expenses.
4. On an unspecified date, MDHHS redetermined Petitioner's FAP eligibility, effective November 2016, to be \$ [REDACTED], in part, based on \$ [REDACTED] in countable medical expenses.

5. On [REDACTED], Petitioner requested a hearing to dispute the redetermined FAP eligibility amount.

### **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 reduction in FAP eligibility, effective November 2016. MDHHS testimony indicated the change in eligibility was part of a FAP benefit redetermination.

MDHHS presented FAP budget pages for November 2016 (Exhibit 1, pp. 1-3) which listed all FAP budget factors. During the hearing, each factor was discussed with Petitioner.

BEM 556 details the calculations for determining FAP eligibility. Those calculations will be applied to the below analysis.

MDHHS factored a \$ [REDACTED]/month gross unearned income for Petitioner. Petitioner testimony conceded the amount to be correct.

[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 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 day care or child support expenses.

MDHHS factored Petitioner's expenses to be \$ [REDACTED]. Following a mandatory \$35 deductible, MDHHS credited Petitioner with \$ [REDACTED] in countable expenses. Petitioner contended MDHHS should have factored a higher amount of medical expenses.

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. *Id.*

MDHHS presented Petitioner's Redetermination (Exhibit 1, pp. 4-9). Petitioner submitted the Redetermination to MDHHS on [REDACTED]. Petitioner checked, "No", in response to a question asking, "Does anyone in the household have expenses?" Petitioner's failure to respond to a question asking if he had expenses equated to a failure to report medical expenses. Petitioner cannot fault MDHHS for not budgeting medical expenses which Petitioner did not report. Petitioner can always submit other medical expenses for consideration in future FAP benefit months.

It is found MDHHS properly factored Petitioner's medical expenses to be \$[REDACTED]. Subtracting Petitioner's countable medical expenses from Petitioner's countable income results in a running net income total of \$[REDACTED].

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 rent to be [REDACTED]. Petitioner conceded the amount to be accurate.

MDHHS credited Petitioner with a standard telephone credit of [REDACTED] (see RFT 255). Petitioner conceded he had no other utility obligations. 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.

During the hearing, Petitioner asked why MDHHS did not honor his desire to continue receiving FAP benefits at "the same amount." MDHHS is obligated to issue FAP benefits at "the same amount" before a negative action when there is a timely hearing request (see BAM 600). The obligation does not apply to FAP benefit redeterminations;

Petitioner's case involved a redetermined FAP benefit amount. Thus, MDHHS had no obligation to continue issuing benefits at the amount of benefits at pre-redetermination.

**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 \$█ in FAP benefits for November 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw

*Christian Gardocki*

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**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]