



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

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Date Mailed: April 29, 2016
MAHS Docket No.: 16-003467
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 20, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for February 1, 2016 ongoing?

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 is an ongoing recipient of FAP benefits for herself and her ██████-year-old son who lives with her.
2. Petitioner has no housing or utility expenses other than telephone.
3. Petitioner became eligible for \$488 in monthly Supplemental Security Income (SSI) benefits effective December 1, 2015.
4. Effective February 1, 2016, Petitioner's monthly FAP benefits decreased from \$357 to \$193.

5. Petitioner's current FAP certification period expires June 30, 2016 (Exhibit B).
6. On March 10, 2016, the Department received Petitioner's request for hearing concerning her FAP amount (Exhibit A).

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.

Petitioner requested a hearing disputing the decrease in her FAP benefits. The Department explained that Petitioner's FAP benefits decreased because she started receiving SSI benefits and previously had no income. The Department presented a FAP net income budget showing the calculation of FAP benefits for February 2016 ongoing that was reviewed with Petitioner at the hearing (Exhibit B).

In calculating monthly FAP benefits, the Department begins with the FAP household's gross income. The net income budget showed that Petitioner's household received \$502 in gross monthly unearned income and \$245 in gross monthly earned income. Petitioner testified that her son had been employed but lost his job in December 2015. The Department testified that Petitioner's prior budget had no income and did not have any explanation for the basis of the \$245 in earned income showing on the budget for February 2016 ongoing. With respect to the \$502 in unearned income on the budget, the Department testified that this was the sum of Petitioner's \$488 in SSI benefits and \$14 in monthly State SSI Payment (SSP) (based on quarterly SSP payments of \$42). Generally, clients who receive SSI are eligible for SSP. BEM 503 (October 2015), p. 33. Petitioner denied receiving any SSP. The Department was given the opportunity to present documentation establishing that Petitioner was eligible for, and had received, SSP but failed to do so. Because the Department could not establish the basis for the earned income and Petitioner's receipt of SSP, the Department failed to satisfy its burden of showing that it properly calculated Petitioner's household's income.

The deductions to Petitioner's FAP budget were also reviewed. The budget includes an earned income deduction equal to 20% of the earned income showing on the budget.

However, this deduction is not appropriate if there was no earned income in the household. Because Petitioner received SSI income on the basis of disability, she is a senior/disabled/veteran (SDV) member of their FAP group. See BEM 550 (October 2015), p. 1. Petitioner testified that her son was seeking SSI benefits, but he had not been approved. Therefore, Petitioner was the only SDV member of her FAP group. In determining net income for a two-person FAP household with unearned income and an SDV member, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, verified out-of-pocket medical expenses for the SDV member in excess of \$35, and excess shelter expenses (based on monthly shelter costs and the applicable utility standard). BEM 554 (October 2015), p. 1; BEM 556 (July 2013), p. 3.

The budget shows that the Department applied the \$154 standard deduction, which is the standard deduction applicable to a two-person FAP group. RFT 255 (October 2015), p. 1. Petitioner acknowledged that neither she nor her son had any child care or child support expenses; therefore, the Department properly did not apply any deduction for those expenses. The Department testified that it only considered the telephone utility standard in calculating Petitioner's excess shelter deduction. Petitioner admitted that she did not have any shelter expenses and her only utility expense was her telephone. The telephone utility standard is \$33. RFT 255 (October 2015), p. 1. Although the Department did not provide a copy of the excess shelter deduction budget, based on its testimony, it properly considered the applicable expenses in calculating Petitioner's excess shelter deduction.

The remaining deduction is for medical expenses. The budget showed no deduction for medical expenses. However, Petitioner testified that she had out-of-pocket medical expenses in excess of \$35 and presented a copy of a \$2200 medical bill for dialysis that she credibly testified that she had submitted to the Department in December 2015, when she was first billed for the services, and again in January 2016 when she was rebilled for the services.

The Department must estimate an SDV member's medical expenses for the benefit period based on non-reimbursable portion of current medical bills. BEM 554 (October 2015), p. 11. Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. BEM 554, pp. 8-9. The budget shows that Petitioner's certification period runs from July 1, 2015 to June 30, 2016. Therefore, once the Department verifies that the medical expense was unpaid by an insurer, is for allowable medical services, and was currently billed when it was submitted in December 2015, it was required to budget the average monthly expense in Petitioner's FAP budget for January 2016 to June 2016, when her certification period expired. In this case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed the medical expense.

Because it could not verify Petitioner's earned income or unearned income and failed to demonstrate that it processed her medical expenses in accordance with policy, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefits for February 1, 2016 ongoing.

DECISION AND ORDER

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. Recalculate Petitioner's FAP benefits for February 1, 2016 ongoing;
2. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from February 1, 2016 ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin

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

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