



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: April 21, 2016  
MAHS Docket No.: 16-003594  
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 telephone hearing was held on April 20, 2016, from Detroit, Michigan. The Petitioner was represented by herself. A witness, [REDACTED], also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUE**

Did the Department properly calculate the Petitioner's 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 is an ongoing recipient of FAP benefits having applied for benefits on January 11, 2016.
2. The Petitioner currently receives FAP in the amount of \$ [REDACTED] per month.
3. The Petitioner's earned income based on check stubs provided was \$ [REDACTED] per month; the Petitioner is paid biweekly; the Petitioner's group size is one; and the Petitioner pays \$ [REDACTED] in rent and pays for her heating. Exhibit 3.
4. The Petitioner requested a timely hearing on March 15, 2016 protesting the Department's actions.

## 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 Petitioner is an ongoing recipient of FAP benefits in the amount of \$ [REDACTED] monthly. The Petitioner sought a review of her benefits as she believed the earned income was incorrect during the hearing her FAP budget was reviewed. The Petitioner provided the Department with her application, several pay stubs in the amounts of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] for the pay dates December 4, 2015; December 18, 2015; and January 1, 2016. Exhibit 1. The Petitioner also provided a rent receipt establishing her monthly rent to be \$ [REDACTED]. The Petitioner also pays for her heating expenses. Based upon these facts, the Department found that Petitioner was entitled to \$ [REDACTED] per month in FAP benefits. The FAP budget, including the excess shelter calculation, was reviewed at the hearing, although the actual budget documents were not provided with the hearing packet.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2014), pp. 1-4. The Department considers the gross amount of money earned from employment in the calculation of earned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group consists of one member. BEM 550 (February 2014), pp. 1-2.

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

The budget for January 2016 used earned income of \$ [REDACTED] for a group of one person. The Department used the last 30 days of pay stubs (December 2015 and January 2016). In calculating adjusted gross income, the Petitioner is entitled to a standard deduction of \$ [REDACTED] based upon a group size of one. RFT 255 (October

2014), p. 1. Earned income is also reduced by 20% as the Department is required to credit earnings with an earned income deduction.

The Petitioner is paid biweekly. Department policies found in BEM 505 require that the average weekly or biweekly check be determined by adding the checks together and dividing by number of checks. Once this amount is determined, it is multiplied by 2.15, if the checks are earned biweekly.

In addition, the Department correctly determined earned income. Using the three checks issued to Petitioner in December 2015 and January 2015 in the amounts of \$ [REDACTED], \$ [REDACTED], and \$ [REDACTED], the checks total \$ [REDACTED]. The gross income for the month is  $\$ [REDACTED] \div 3 = \$ [REDACTED] \times 2.15 = \$ [REDACTED]$ . Thus, the Department using pay stubs properly calculated earned income for December 2016, which is the income which should be used to calculate January 2016 FAP benefits. Exhibit 3. The next step requires that the earned income deduction of 20% of earned income and the standard deduction are deducted from the income total,  $(\$ [REDACTED] \times 20\% = \$ [REDACTED])$ . Once the earned income deduction and the standard deduction are deducted, the adjusted gross income is \$ [REDACTED].


The next step requires that the excess shelter deduction be determined. All of the housing expenses are first added together, which in this case is the total of rent in the amounts of \$ [REDACTED] and \$ [REDACTED], heating and utility (h/u) standard for a total of \$ [REDACTED]. RFT 255 (October 1, 2014) p. 1. One half of the adjusted gross income or \$ [REDACTED] is then deducted from the total housing expenses to get the excess shelter deduction, which in this case is \$ [REDACTED].  $(\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED])$ . A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$ [REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1. The excess shelter deduction is then subtracted from the adjusted gross income leaving monthly income (net) after deductions of \$ [REDACTED].  $(\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED])$ . A FAP group of one person with a net income of \$ [REDACTED] is entitled to FAP benefits of \$ [REDACTED] per month. RFT 260 (October 1, 2015) p. 10.

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 acted in accordance with Department policy when it correctly calculated the Petitioner's FAP benefits at \$ [REDACTED] per month.

### **DECISION AND ORDER**

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

LMF/jaf

  
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**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]

**cc:**

[REDACTED]