



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: August 26, 2016
MAHS Docket No.: 16-010153
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 17, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly calculate Petitioner's monthly Food Assistance Program (FAP) benefits for July 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 was an ongoing recipient of FAP benefits.
2. Petitioner lives with her two minor children.
3. Petitioner is employed and paid on a biweekly basis.
4. In connection with a redetermination, the Department recalculated Petitioner's FAP eligibility and amount using her April 2016 income.

5. On July 8, 2016, the Department sent Petitioner a Notice of Case Action notifying her that she was approved for [REDACTED] in monthly FAP benefits for July 1, 2016 to June 30, 2017 (Exhibit A, pp. 5-6).
6. On July 14, 2016, the Department received Petitioner's hearing request disputing its actions concerning her FAP case (Exhibit A, pp. 2-3).

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 her July 14, 2016 hearing request Petitioner indicated that she was disputing the closure of her FAP case. At the hearing, she explained that she thought her case had closed in July 2016 because she anticipated receiving more than [REDACTED] in FAP benefits and did not realize that her monthly FAP benefits had been reduced to [REDACTED] beginning July 2016. The Department presented a July 8, 2016 Notice of Case Action notifying Petitioner that she was approved for [REDACTED] in monthly FAP benefits for the 12-month certification period beginning July 1, 2016 (Exhibit A, pp. 5-6). The hearing addressed the calculation of Petitioner's FAP benefits for July 1, 2016 ongoing.

The Department presented a FAP net income budget showing the calculation of Petitioner's Food benefits for July 2016 (Exhibit A, pp. 14-15, 19) that was reviewed with Petitioner at the hearing.

The only income showing on the budget was monthly earned income of [REDACTED]. In calculating Petitioner's gross monthly earned income of [REDACTED], the Department testified that it considered Petitioner's gross income in [REDACTED]: [REDACTED] paid on [REDACTED]; [REDACTED] paid on [REDACTED]; and [REDACTED] paid on [REDACTED].

To determine future months' income for purposes of FAP eligibility and benefit amount, the Department must prospect income using a best estimate of income expected to be received during the month. BEM 505 (July 2016), p. 4. Income for the past 30 days is used to prospect income for the future if it appears to accurately reflect what is expected

to be received in the benefit month. BEM 505, p. 6. If the past 30 days is not a good indicator of future income and fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department should use income from the past 60 or 90 days. BEM 505, pp.6-7. An employee's wages include salaries, tips, commissions, and bonuses. BEM 501 (July 2016), p. 6.

Although Petitioner argued that she earned more overtime in April 2016 than usual, a review of her gross biweekly earnings since February 2016 does not show any significant variation in the biweekly pay Petitioner received. Therefore, the Department acted in accordance with Department policy when it considered her income for April 2016 in prospecting her ongoing gross monthly employment income. When Petitioner's average biweekly pay in April 2016 of [REDACTED] is, in accordance with Department policy, multiplied by 2.15, the result in gross monthly earned income of [REDACTED]. See BEM 505, p. 9. Therefore, the Department properly calculated Petitioner's gross monthly earned income.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. The evidence established that there were three members in Petitioner's household, Petitioner and her two minor children, all of whom were FAP group members. BEM 212 (October 2015), p. 1. Because none of the FAP group members were over age 60, disabled or disabled veterans, there were no senior/disabled/veteran (SDV) member in the FAP group. See BEM 550 (October 2015), p. 1. For FAP groups with earned income but no SDV members, the Department must reduce the household's gross monthly income by the following deductions: the earned income deduction, the standard deduction (based on group size), unreimbursed child care expenses, child support expenses, and the excess shelter deduction. BEM 554 (June 2016), p. 1; BEM 556 (July 2013), pp. 4-5.

The earned income deduction is equal to 20% of the gross monthly earned income received by the FAP group. BEM 556, p. 3. 20% of Petitioner's gross monthly earned income of [REDACTED] is [REDACTED], as shown on the budget. Because there are three members of Petitioner's FAP group, Petitioner was eligible for a [REDACTED] standard deduction for a three-member FAP group, as shown on the budget. RFT 255 (July 2016), p. 1. Petitioner confirmed the household had no child support expenses and no out-of-pocket child care expenses. Therefore, Petitioner properly received no deduction for those expenses.

The final deduction available is the excess shelter deduction, which is based on client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. The excess shelter deduction budget (Exhibit A, p. 19) showed that the Department considered monthly housing expenses of [REDACTED]. Although Petitioner testified that her rent was expected to increase soon, the Department properly used [REDACTED], the rent in effect at the time the budget was calculated.

Petitioner was advised to notify the Department of any changes to her rent so that the changes can be processed to possibly affect future FAP benefits.

The utility standard that applies to a client's case is dependent on the client's circumstances. A client is eligible for the [REDACTED] heat and utility (h/u) standard, the most advantageous utility standard available to a client, if the client is responsible for any heating or cooling expenses. BEM 554, pp. 14-20; RFT 255, p. 1. If a client is not eligible for the mandatory h/u standard, she may be eligible for mandatory *individual* standards for non-heat electric, water and/or sewer, telephone, cooking fuel, and/or trash removal, as applicable. BEM 554, pp. 20-23. In this case, the Department concluded that Petitioner was eligible for the h/u standard, as shown on the excess shelter deduction budget. Therefore, based on the evidence available to the Department at the time it processed Petitioner's July 1, 2016 ongoing FAP budget, the Department properly considered [REDACTED] in monthly rent and the [REDACTED] h/u standard. Based on Petitioner's [REDACTED] monthly rent and the [REDACTED] utility standard, Petitioner's excess shelter deduction was properly calculated at [REDACTED].

When Petitioner's gross income of [REDACTED] is reduced by the [REDACTED] earned income deduction, the [REDACTED] standard deduction, and the [REDACTED] excess shelter deduction, her net income is [REDACTED]. Based on a FAP group size of three and net income of [REDACTED], Petitioner was eligible for gross monthly FAP benefits of [REDACTED] for July 1, 2016 ongoing. RFT 260 (October 2015), p. 22.

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 calculated Petitioner's monthly FAP benefits for July 1, 2016 ongoing.

DECISION AND ORDER

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

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]