



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 1, 2016
MAHS Docket No.: 16-010391
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 August 24, 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. On [REDACTED], Petitioner applied for FAP benefits.
2. Petitioner was part of a 2-person household.
3. Petitioner had \$0 housing costs.
4. On [REDACTED], MDHHS determined Petitioner to eligible for [REDACTED] in FAP benefits, effective July 2016, in part, based on \$0 housing costs.

5. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility and MDHHS' failure to issue Medical Assistance (MA) benefits to her spouse.
6. Petitioner withdrew her dispute concerning MA benefits.

CONCLUSIONS OF LAW

Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-25. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a failure by MDHHS to issue MA benefits to her spouse. Petitioner testified that MDHHS recently issued MA benefits to her spouse and she is satisfied with the issuance. Petitioner also testified she no longer needs a hearing to dispute her spouse's MA eligibility. Petitioner's hearing request will be dismissed concerning MA eligibility.

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, in part to dispute FAP eligibility. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED] stating Petitioner was eligible to receive [REDACTED]/month in FAP benefits, effective [REDACTED]. The Notice of Case Action also listed Petitioner was eligible to receive [REDACTED] in FAP benefits beginning July 2016.

Petitioner's hearing request specifically disputed an issuance of [REDACTED]. Petitioner's testimony objected to an ongoing FAP issuance. Based on Petitioner's testimony, Petitioner's FAP eligibility for July 2016 will be the subject of this decision.

The presented notice included a budget summary of eligibility factors. All factors were discussed with Petitioner during the hearing. BEM 556 details the procedures for determining FAP eligibility.

It was not disputed that Petitioner's household receives [REDACTED]/month in earned income. MDHHS credits clients with a 20% employment income deduction. Application of the deduction results in countable employment income of [REDACTED] (dropping cents).

[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. There was no evidence that Petitioner or her spouse were SDV members. For purposes of this decision, it will be assumed Petitioner and her spouse were both SDV members.

Verified 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, medical or child support expenses.

Petitioner's FAP benefit group size justifies a standard deduction of [REDACTED]. RFT 255 (July 2016), p. 1. 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 \$0 in housing expenses. Petitioner testimony contended MDHHS should have factored motel costs.

Petitioner credibly testified she and her spouse live in motels, but only when they can afford them. Petitioner testified she and her spouse lived in a motel from [REDACTED] [REDACTED]. Petitioner testified she did not live in a motel for over a month after that. Thus, Petitioner did not live in a motel from the time she applied for FAP benefits through the date of determination. If Petitioner did not pay for a motel during that time period, it can only be found that MDHHS properly did not factor Petitioner's motel expenses.

Petitioner testified when she did not live in a motel, she lived with friends and/or family. Petitioner testimony implied she sometimes paid them for the imposition. The testimony was consistent with a written statement submitted to MDHHS.

MDHHS presented a written statement dated [REDACTED] (Exhibit 1, p. 9), from a person stating Petitioner was a temporary resident who paid [REDACTED]/week. MDHHS thought the statement was questionable because MDHHS expected Petitioner to claim motel costs. MDHHS testimony indicated Petitioner's MDHHS specialist attempted to call the temporary landlord, but was not successful. MDHHS testimony also indicated Petitioner's spouse was called so the rent situation could be clarified. MDHHS testimony indicated Petitioner's spouse reported to MDHHS that no rent was currently being paid.

Petitioner testimony conceded the possibility that her spouse made such a statement. Based on presented evidence, it is found on [REDACTED], Petitioner's spouse told MDHHS that no rent was being paid.

MDHHS cannot be faulted for relying on the statement of Petitioner's spouse. It is found MDHHS properly factored \$0 housing costs for Petitioner.

MDHHS factored Petitioner's only utility expense was for telephone. Petitioner testimony conceded she had no obligation for other expenses. MDHHS issued a standard telephone of [REDACTED] (see RFT 255). Petitioner's total shelter (housing and utility) expenses 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 \$0.

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 is found to be [REDACTED], the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute of an alleged MDHHS failure to process her spouse's MA eligibility. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible to receive [REDACTED] in FAP benefits, effective July 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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]