



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: September 7, 2016
MAHS Docket No.: 16-010783
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 31, 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 a FAP benefit group.
3. Petitioner had RSDI income of [REDACTED]/month.
4. In March 2016, Petitioner reported to MDHHS she was living in a motel.
5. On [REDACTED], MDHHS mailed Petitioner's a Verification Checklist requesting Petitioner's motel costs.

6. On [REDACTED] MDHHS determined Petitioner's FAP eligibility for June 2016, in part, based on [REDACTED] for housing costs and [REDACTED] in income.
7. On [REDACTED], Petitioner submitted to MDHHS verification of [REDACTED] in weekly motel expenses.
8. On an unspecified date, MDHHS determined Petitioner to be eligible for [REDACTED] in FAP benefits, effective August 2016.
9. On [REDACTED], Petitioner requested a hearing to dispute her FAP eligibility from June 2016.
10. On [REDACTED], MDHHS recalculated Petitioner's FAP eligibility for August 2016 and determined Petitioner to be eligible for [REDACTED], in part, based on [REDACTED]/month in housing costs and [REDACTED] in income.

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 FAP benefits. Petitioner testified she disputed her FAP eligibility from June 2016 through August 2016.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED]. MDHHS credibly testified the notice accurately included information concerning Petitioner's FAP eligibility for June 2016 and July 2016.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5-6) dated [REDACTED]. The written notice affected Petitioner's FAP eligibility for August 2016. MDHHS testimony indicated the notice dated [REDACTED] was the second notice sent to Petitioner concerning FAP eligibility for August 2016. MDHHS testimony also indicated the notice corresponded to Petitioner's ultimate FAP benefit issuance for August 2016.

The presented Notices of Case Action included a budget summary for all FAP amounts factored by MDHHS. During the hearing, Petitioner was given an opportunity to dispute all budgeted income and expenses. The below analysis incorporates Petitioner's responses and FAP budget policies from BEM 556. Distinctions between Petitioner's eligibility for June 2016, July 2016, and August 2016 will be noted.

For all 3 disputed benefit months, MDHHS factored Petitioner's RSDI income of [REDACTED]/month. Petitioner's hearing request alleged she did not receive RSDI income for 2 months. During the hearing, Petitioner was asked why she did not receive RSDI for 2 months. Petitioner responded she twice had to use her entire RSDI benefit to pay off a short-term loan. For purposes of this decision, Petitioner's testimony will be accepted as fact.

Using income to pay off a loan does not justify excluding income from a FAP benefit determination. It is found MDHHS properly budgeted Petitioner's income to be [REDACTED]/month.

[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 [REDACTED] for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner was disabled.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner did not allege having any child care, or dependent care expenses. MDHHS credited Petitioner for a [REDACTED] medical expense, beginning August 2016. Presumably, the credit was for a Medicare premium of [REDACTED] and application of a [REDACTED] copayment.

Petitioner's FAP benefit group receives a standard deduction of [REDACTED]. RFT 255 (October 2015), p. 1. MDHHS lowered the deduction to [REDACTED] beginning July 2016 (see 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] for June 2016. Petitioner's adjusted gross income for July 2016 is found to be [REDACTED]. Petitioner's adjusted gross income for August 2016 is found to be [REDACTED].

It was not disputed Petitioner reported [REDACTED]/week in motel costs to MDHHS in March 2016. MDHHS factored Petitioner's housing expenses to be [REDACTED] for June and July 2016. MDHHS factored Petitioner's housing expenses to be [REDACTED] for August 2016.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2016), p. 1. [For all programs, MDHHS is to] use the DHS-3503, Verification Checklist to request verification. *Id.*, p. 3. [MDHHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3.

[MDHHS is to] act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (April 2016), p. 4. [For benefit increases,] changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* If necessary verification is not returned by the due date, [MDHHS is to] take appropriate action based on what type of verification was requested. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.*

MDHHS presented a Verification Checklist (Exhibit 1, pp. 9-10) dated [REDACTED]. Petitioner's rent was among the verifications requested on the checklist. The stated due date for verification was [REDACTED].

MDHHS presented Petitioner's motel receipts (Exhibit 1, pp. 7-8) verifying weekly payments of [REDACTED] from April 2016 and May 2016. The document was signed by Petitioner's specialist as received from Petitioner on [REDACTED].

Presented documentation sufficiently verified Petitioner was entitled to inclusion of [REDACTED]/week in motel expenses beginning August 2016 (the month after Petitioner's late verification submission). BEM 554 directs MDHHS to convert weekly expenses to monthly expenses by multiplying them by 4.3. Thus, Petitioner is entitled to housing costs of [REDACTED] for August 2016; Petitioner is not entitled to housing costs for June 2016 or July 2016 due to her untimely verification submission.

MDHHS credited Petitioner for electricity and telephone obligations in June and July 2016. MDHHS credited Petitioner only for a telephone obligation in August 2016. Petitioner did not dispute the utility credits. Petitioner received a standard credit of [REDACTED] for electricity and [REDACTED] for telephone (see RFT 255). Thus, Petitioner's total shelter credit (housing + utilities) is [REDACTED] for June and July 2016. Petitioner's shelter credit for August 2016 is found to be [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. For June and July 2016, Petitioner's excess shelter amount is found to be [REDACTED]. For August 2016, Petitioner's excess shelter credit 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] for June 2016, [REDACTED] for July 2016, and [REDACTED] for August 2016. 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 was eligible to receive [REDACTED] in FAP benefits, for June and July 2016, and [REDACTED] in August 2016, the same amounts calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility for June 2016, July 2016, and August 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]