



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: September 22, 2016
MAHS Docket No.: 16-011571
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 September 12, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits?

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 May 19, 2016, Petitioner applied for FAP benefits.
2. Petitioner is the only member of his FAP group.
3. On June 8, 2016, the Department sent Petitioner a Shelter Verification form requesting verification of rent by June 20, 2016.
4. On June 17, 2016, the Department sent Petitioner a Notice of Case Action notifying him that he was eligible for \$0 in FAP benefits for May 19, 2016 to May 31, 2016 and [REDACTED] in monthly FAP benefits for June 2016 ongoing (Exhibit C).

5. On June 20, 2016, Petitioner submitted verification of shelter expenses showing monthly rent of [REDACTED].
6. On July 21, 2016, the Department sent Petitioner a Notice of Case Action notifying him that his monthly FAP benefits would increase to [REDACTED] effective August 1, 2016 (Exhibit B).
7. On July 26, 2016, the Department received Petitioner's request for hearing disputing the calculation of his FAP benefits.

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 applied for FAP benefits on May 19, 2016. He received \$0 in FAP benefits for May 19, 2016 to May 31, 2016 and was approved for [REDACTED] in monthly FAP benefits effective June 1, 2016. Effective August 1, 2016, his monthly FAP benefits increased to [REDACTED] (Exhibit B). Petitioner requested a hearing disputing the calculation of his FAP benefits. Because the Department did not present any FAP net income budgets, the information on the budgets in the June 17, 2016 and July 21, 2016 Notices of Case Action were reviewed on the record with Petitioner.

The budget in the June 17, 2016 Notice of Case Action showed gross monthly unearned income of [REDACTED]. The budget in the July 21, 2016 Notice of Case Action showed monthly unearned income [REDACTED] (Exhibits B and C). Petitioner testified that he received gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of [REDACTED], gross monthly Supplemental Security Income (SSI) benefits of [REDACTED], and quarterly State SSI Payment (SSP) benefits of [REDACTED]. In calculating Petitioner's monthly income, the Department considers [REDACTED] in SSP benefits. BEM 503 (April 2016), p. 33. Petitioner's [REDACTED] in RSDI benefits, [REDACTED] in SSI benefits, and [REDACTED] in SSP benefits result in [REDACTED] in gross monthly unearned income. The Department could not explain the basis for its determination that Petitioner had [REDACTED] in monthly income for the May 19, 2016 to July 31, 2016 FAP budgets or its determination that Petitioner had [REDACTED] in monthly

income for the August 2016 ongoing budgets. Therefore, the Department failed to satisfy its burden of showing that it properly calculated Petitioner's gross income in determining his FAP allotment.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner receives SSI, he is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (October 2015), p. 1. For FAP groups with one or more SDV members and no earned income, 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 in excess of [REDACTED] and the excess shelter deduction. BEM 554 (June 2016), p. 1; BEM 556 (July 2013), pp. 4-5.

Petitioner, as the only member of his FAP group, was eligible for a [REDACTED] standard deduction through June 2016 and, following a policy change effective July 1, 2016, a [REDACTED] standard deduction for July 2016 ongoing. RFT 255 (October 2015 and July 2016), p. 1. The budget in the June 17, 2016 Notice of Case Action shows that a [REDACTED] standard deduction was applied in calculating Petitioner's FAP allotment. Because this decreased standard deduction did not apply until July 2016, the Department did not act in accordance with Department policy to the extent it applied the [REDACTED] standard deduction to Petitioner's May and June 2016 FAP budgets.

Petitioner confirmed that he had no child care or child support expenses. Therefore, the budgets properly showed no deduction for those expenses. While Petitioner testified that he had out-of-pocket medical expenses in excess of [REDACTED], he admitted that he had not provided verification of those out of pocket expenses to the Department. Therefore, the Department acted in accordance with policy when it did not consider those expenses. BEM 554, pp. 8-12. Petitioner was advised to provide verification of his out-of-pocket medical expenses to possibly affect future FAP.

The final deduction available to Petitioner in calculating his FAP benefits is the excess shelter deduction, which takes into consideration a client's monthly shelter expenses and applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5.

In this case, the Department verified that Petitioner reported that he had rental obligations in his May 30, 2016 FAP interview and he submitted verification of his monthly shelter expenses within 10 days of the date he was requested to provide such verification. Even though Petitioner timely provided verification of his rental expenses, the Department did not include the shelter expenses in calculating his FAP budget until August 2016. Because Petitioner timely verified his housing expenses in connection with his application, the Department did not act in accordance with policy when it failed to taken into consideration his monthly rental obligation when calculating his excess shelter deduction beginning May 19, 2016. BEM 554, p. 14.

The utility standard that applies to a client's case is dependent on the client's circumstances. A client is eligible for the heat and utility (h/u) standard, the most advantageous utility standard available to a client, if (i) the client is responsible for, or contributes towards, heating or cooling (including room air conditioner) expenses, (ii) the landlord bills the client for excess heating or cooling; (iii) the client has received a HHC in an amount greater than \$20 in the application month or in the immediately preceding 12 months prior to the certification month at the time of redetermination; (iv) the client received a low income home energy assistance payment (LIHEAP) payment or a LIHEAP payment was made on their behalf in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month; or (v) the client otherwise has **any** responsibility for the heating/cooling expense. BEM 554, pp. 14-20; RFT 255 (October 2015), p. 1. If a client is not eligible for the mandatory h/u standard, he 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, Petitioner testified that his heating and cooling expenses and all utilities other than telephone were included in his rent. Therefore, the only utility standard Petitioner was eligible to receive was the [REDACTED] telephone standard, as shown in the budgets. RFT 255, p. 1.

Because the Department failed to satisfy its burden of showing how it calculated Petitioner's gross unearned income, misapplied the applicable standard deduction, and delayed including Petitioner's monthly rent in the calculation of his FAP benefits, the Department did not act in accordance with Department policy when it calculated Petitioner FAP benefits.

DECISION AND ORDER

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 did not act in accordance with Department policy when it calculated Petitioner's FAP benefits.

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 May 19, 2016 ongoing;

2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from May 19, 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

DHHS

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

Petitioner

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

Via Email:

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