



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 23, 2016
MAHS Docket No.: 16-011796
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 September 19, 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 a member of a 6-person FAP benefit group
3. Petitioner neither reported, nor submitted, verification of a property tax obligation.
4. On [REDACTED], MDHHS determined Petitioner to be eligible for [REDACTED] in FAP benefits, effective September 2016, in part, based on \$0 property tax obligation.
5. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility.

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 eligibility. Petitioner's hearing request did not identify a month in dispute, though Petitioner testified she intended to dispute a decrease of FAP benefits to [REDACTED].

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 September 2016. Petitioner testimony agreed that September 2016 was the FAP benefit month she intended to dispute.

The presented Notice of Case Action included a budget summary of eligibility factors. MDHHS also presented a FAP budget for September 2016 (Exhibit 1, pp. 3-4). All factors were discussed with Petitioner during the hearing. BEM 556 details the procedures for determining FAP eligibility.

MDHHS factored Petitioner's countable income to be [REDACTED]/month. The MDHHS case summary noted Petitioner's son's employment income was counted because he was over the age of 18. MDHHS also stated Petitioner's daughter's employment income was not counted because she was under 18 years of age. The budgeting appears to be consistent with MDHHS policy (see BEM 501). In any event, Petitioner testimony conceded the monthly countable employment income amount to be correct.

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 [REDACTED] for each SDV group member(s) and an uncapped excess shelter expense. There was no evidence that Petitioner or her group members were 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 factored [REDACTED] in housing expenses. Petitioner testified the factored housing costs only included her mortgage and property tax insurance. Petitioner contended MDHHS should have also factored property taxes.

Petitioner testified that she was uncertain if she reported a property tax obligation to MDHHS. During the hearing, MDHHS was asked to check Petitioner's most recently submitted reporting document for the purpose of verifying whether a property tax obligation was listed. MDHHS credibly testified Petitioner submitted a Redetermination to MDHHS on June 30, 2016, and the document did not list a property tax obligation.

Petitioner testified she recalled submitting proof of her property taxes at some point within the last 6 months. Petitioner's testimony was corroborated, as MDHHS discovered Petitioner submitted property tax documents on August 17, 2016. The submission occurred 15 days after MDHHS determined Petitioner's FAP eligibility.

It should also be noted that Petitioner's property tax submission occurred 2 days after she requested a hearing. There is no administrative hearing jurisdiction to address actions that occur after a hearing request submission.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. Petitioner cannot fault MDHHS for failing to factor a property tax obligation which Petitioner had not yet reported or verified. Based on presented evidence, it is found Petitioner neither verified, nor reported, a property tax obligation to MDHHS as of August 2, 2016, the date of MDHHS determination.

MDHHS credited Petitioner with the maximum utility standard of [REDACTED] (see RFT 255). Petitioner's total shelter expenses are found to be [REDACTED] (rounding to nearest dollar).

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.

It should be noted that Petitioner was advised she should expect a new FAP benefit determination based on her property tax obligation submission from [REDACTED]. Petitioner should be warned that the property tax obligation submission appears to have no impact on the FAP benefit issuance; in such a case, an updated Notice of Case Action may not be necessary (see BAM 220).

DECISION AND ORDER

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 September 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]