



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 28, 2016
MAHS Docket No.: 16-012031
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the 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. The Petitioner was an ongoing recipient of FAP benefits. She completed a Semi-Annual Contact Report for [REDACTED].
2. The Petitioner received \$ [REDACTED] in FAP benefits for [REDACTED]. Exhibits A, B and C.
3. The Petitioner received earned income of \$ [REDACTED] based upon paystubs used by the Department to calculate her FAP benefits for August as follows: [REDACTED], \$ [REDACTED], \$ [REDACTED], \$ [REDACTED], and [REDACTED], \$ [REDACTED]. The gross earned income total was \$ [REDACTED]. The weekly average gross income was \$ [REDACTED] for gross income of \$ [REDACTED].

4. The Petitioner also receive Family Independence Program (FIP) benefits for August of \$ [REDACTED] which was not included in the FAP budget as unearned income.
5. The Petitioner has an FAP group of three persons. Exhibits A and C.
6. The Department issued a Notice of Case Action on [REDACTED], advising that the Petitioner's FAP benefits were approved for [REDACTED], in the amount of \$ [REDACTED] and closed her FIP benefits effective [REDACTED]. Exhibits C and B. The Petitioner's FAP benefits were reduced after the semi-annual report. Exhibit B.
7. On [REDACTED], the Department received a shelter verification that the Petitioner paid rent of \$ [REDACTED] monthly.
8. The Petitioner requested a timely hearing on [REDACTED].

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 this case, the Petitioner requested a hearing regarding how the Department determined the amount of her FAP benefits. At the hearing, the FAP budget for [REDACTED] was reviewed and was determined to be incorrect because the Department did not include the FIP cash assistance received by the Petitioner in August of \$ [REDACTED] as unearned income when calculating the FAP benefits.

In this case, the Department used four paystubs to determine the Petitioner's monthly gross income. [REDACTED]; [REDACTED]; [REDACTED]; and [REDACTED]. The gross earned income total was \$ [REDACTED]. The weekly average gross income was \$ [REDACTED] for gross income of \$ [REDACTED]. The Department determined the income to be \$ [REDACTED] and the \$ [REDACTED] discrepancy was not explained.

At the hearing, the Department presented the FAP EDG Net Income Results Budget for [REDACTED], which was reviewed to determine if the Department

properly concluded that Petitioner was eligible to receive \$ [REDACTED] in monthly FAP benefits. (Exhibits B and C).

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2014), pp. 1–4. The Department considers the gross amount of money earned from employment earnings and unearned income received for FIP cash assistance for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has an FAP group of three members. FAP recipients are entitled to receive deductions for certain expenses, which in this case included the standard deduction based on group size, excess shelter expense and earned income deduction equal to 20% of earned income. BEM 554 (October 2014), p. 1; BEM 556 (June 1, 2016), p. 3.

In this case, Petitioner was entitled to a 20% earned income deduction and was credited with \$ [REDACTED] in earned income deduction, which was correct. Based on her confirmed three-person group size, the Department properly applied the \$ [REDACTED] standard deduction. RFT 255 (July 1, 2016), p. 1.

In calculating Petitioner's excess shelter deduction, the Department considered Petitioner's rent in the amount of \$ [REDACTED] which was incorrect as the Petitioner had previously reported her rent to the Department in a different amount. The Department, however, used \$ [REDACTED] in the budget, which was the previous amount it had used. The Petitioner also reported a change in rent on [REDACTED], which was not considered in the FAP budget because it was reported after the budget was prepared. **The Department, however, must consider this change in rent in future budgets.**

The Department granted a heat and utility (h/u) allowance of \$ [REDACTED] which was correct as the Petitioner confirmed she paid for heat. See BEM 554, pp. 16-19. A review of the excess shelter deduction budget and Department policy shows that the Department did not properly determine the excess shelter deduction because the adjusted gross income was incorrect due to the FIP not being included in the gross income. BEM 556, pp. 14-15; RFT 255, p. 1. Department policy provides:

The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc.; see Actual Utilities in this item. Do **not** prorate the h/u standard even if the heating/cooling expense is shared.

FAP groups that qualify for the h/u standard **do not** receive any other individual utility standards. Do **not** require verification of the other utility standards if the household is already eligible for the h/u standard.

Note: FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment

(LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month

Based upon the review of the budget at the hearing, the Department must recalculate the FAP benefits as the gross income was incorrect due to the failure of the Department to include FIP income of \$ [REDACTED] for [REDACTED].

DECISION AND ORDER

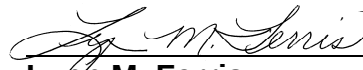
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it did not act in accordance with Department policy when it calculated the Petitioner's 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. The Department shall recalculate the Petitioner's FAP benefits for [REDACTED].
2. The Department shall provide the Petitioner notice of its recalculation.

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

Via email

[REDACTED]