



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: October 4, 2016
MAHS Docket No.: 16-012341
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 27, 2016, from Lansing, Michigan. [REDACTED], the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Lead Worker.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as marked, Exhibits A-F, pp. 1-33.

ISSUE

Did the Department properly determine the amount of Petitioner's Food Assistance Program (FAP) monthly allotment?

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 applied for FAP on July 26, 2016. (Exhibit A, pp. 1-17)
2. Petitioner's food benefit case in Arizona did not close until August 31, 2016. (Lead Worker Testimony)

3. The Department calculated a FAP budget for September 1, 2016, and ongoing based on the current verifications of income and allowable expenses. (Exhibits B-E, pp. 18-30; Lead Worker Testimony)
4. On August 11, 2016, a Notice of Case Action was issued to Petitioner stating FAP was denied for July 26, 2016, through August 31, 2016, because Petitioner received the same program benefits in another state for the benefit period, and FAP was approved effective September 1, 2016, with a monthly allotment of \$[REDACTED]. (Exhibit F, pp. 31-33)
5. On August 31, 2016, Petitioner filed a hearing request contesting the amount of the FAP benefits. (Hearing Request)

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 calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550, (October 1, 2015), pp. 1.

The Department counts the gross benefit amount of current Social Security Administration (SSA) issued Supplemental Security Income (SSI) as unearned income. BEM 503, (July 1, 2016), p. 32. State SSI Payments (SSP) are issued quarterly and the Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33. The Department also counts the gross benefit amount of SSA issued Retirement, Survivors, and Disability Insurance (RSDI) as unearned income. (BEM 503, p. 28)

A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (June 1, 2016) p. 12. However, if an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, the Department will allow only the amount that the group is responsible to pay, unless specific policy directs otherwise. For example: HUD pays \$150 toward a FAP group's

\$325 rental expense. Allow only the \$175 (\$325 rent - \$150 HUD pays = \$175) that the group is expected to pay. BEM 554, p. 2.

Heat and utility (h/u) expenses can also be included as allowed by policy. The Department allows only the utilities for which a client is responsible to pay. FAP groups that qualify for the full h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent or fees are not eligible for the full h/u standard, unless they are billed for excess heat payments from their landlord. However, FAP groups who have received a home heating credit (HHC) in an amount greater than \$20 in the certification month or in the immediately preceding 12 months prior to the certification month are eligible for the full h/u standard. FAP groups who have 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 application month are eligible for the full h/u standard. FAP groups not eligible for the full h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. The Department is to use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-23.

For FAP groups with one or more senior/disabled/disabled veteran (SDV) member, the allowable, verified medical expenses that exceed \$[REDACTED] are also considered. (BEM 554, pp. 1 and 8-12)

As of July 1, 2016, the FAP standard deduction for a group size of 1-3 persons is \$[REDACTED]. Utility standards include \$[REDACTED] for electric and \$[REDACTED] for telephone. RFT 255, (July 1, 2016), p. 1.

A person cannot receive FAP in more than one state for any month. BEM 222, (July 1, 2013), p. 2.

In her testimony, Petitioner raised issues beyond the FAP eligibility determination. However, as discussed, this Administrative Law Judge does not have any authority to review those other issues. Rather, there is only jurisdiction to review whether contested FAP case action was in accordance with Department policy. Further, this Administrative Law Judge has no authority to change or make exceptions to the Department policy.

In this case, the Lead Worker credibly testified that Petitioner's food benefit case in Arizona did not close until August 31, 2016. (Lead Worker Testimony) Accordingly, the Department properly denied Michigan issued FAP benefits from the application date, July 26, 2016, through August 31, 2016, because Petitioner received the same program benefits in another state for this period. (Exhibit F, pp. 31-33)

The FAP budget effective September 1, 2016, was reviewed with the parties during the hearing and no errors in the budget were identified. For example, the budgeted income of \$[REDACTED] was based on the total of Petitioner's RSDI, SSI, and SSP benefits. (Exhibit B,

p. 18-20; Exhibit E, pp. 28-30; Lead Worker Testimony) The Department properly included only the portion of the rent Petitioner is responsible to pay and the individual standards for the utilities Petitioner is responsible to pay pursuant to the above cited BEM 554 policy. (Exhibit C, p. 21-25; Exhibit E, pp. 28-30) It was uncontested that Petitioner had not provided verification of any allowable medical expenses for the Department to consider in the FAP budget. (Petitioner and Lead Worker Testimony)

Petitioner's hearing request indicated she is seeking an increase in the FAP monthly allotment. Petitioner noted that she has several other types of expenses such as a car payment, car insurance, credit card, and owing toward the security deposit for rent. As confirmed with the Lead Worker during the hearing proceedings, the Department's policy does not allow these types of expense to be considered in calculating the food budget. (Lead Worker Testimony; BEM 554, June 1, 2016, pp. 1-30)

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 acted in accordance with Department policy when it calculated Petitioner's monthly FAP monthly allotment.

Accordingly, the Department's decision is **AFFIRMED**.

CL/mc



Colleen Lack
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]