



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: October 13, 2016
MAHS Docket No.: 16-013173
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 October 11, 2016, from Lansing, Michigan. Petitioner appeared and represented himself. [REDACTED], Eligibility Specialist (E.S.), represented the Department of Health and Human Services (Department).

The Department offered the following exhibits which were admitted into evidence as **Department's Exhibit 1**: Hearing Summary (page 13), Request for Hearing dated (pages 11-12), Notice of Case Action dated September 10, 2016 (pages 7-10), Bridges FAP-EGD Net Income Results for benefit period: 9/1/16-9/30/16 (pages 5-6), Bridges FAP-Excess Shelter Deduction for benefit period: 9/1/16-9/30/16 (page 4), Bridges FAP-EDG Net Income Results for benefit period: 10/1/16-10/31/16 (pages 2-3) and Bridges FAP-Excess Shelter Deduction for benefit period: 10/1/16-10/31/16 (page 1).

Petitioner did not offer any exhibits into evidence.

Neither the Department nor Petitioner called any additional witnesses at the hearing.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine the amount of 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. Petitioner was an active FAP recipient with a group size of 1 and a \$ [REDACTED] monthly allotment. [Department's Exhibit 1, p. 6].
2. At all relevant times, Petitioner receives \$ [REDACTED] in monthly countable unearned income. [Dept. Exh. 1, p. 3].
3. On September 10, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which indicated that his monthly FAP allotment would decrease to \$ [REDACTED] effective October 1, 2016. [Dept. Exh. 1, pp. 7-10].
4. Effective October 1, 2016, the Department changed the heat and utility standard from \$ [REDACTED] to \$ [REDACTED] for all FAP recipients.
5. Petitioner verbally requested a hearing to dispute his FAP allotment amount on September 19, 2016. [Dept. Exh. 1, p. 11].

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 the instant matter, Petitioner requested a hearing because the Department reduced his monthly FAP allotment from \$ [REDACTED] to \$ [REDACTED]. Petitioner stated that the Department inappropriately used "loopholes" to justify lowering his monthly FAP amounts and had been engaged in this practice for several years. The Department contends that the reduction was proper and was due to a reduction in the heat and utility standard from \$ [REDACTED] to \$ [REDACTED] following a mass update.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. At the onset, it should be noted that the Michigan Administrative Hearing System (MAHS) will not grant a hearing regarding the issue of a

mass update required by state or federal law **unless** the reason for the request is an issue of incorrect computation of program benefits or patient-pay amount. BAM 600 (10-1-2015), p. 7. However, because Petitioner's request for hearing concerns an alleged incorrect computation of his FAP benefits, the undersigned has jurisdiction to hear this matter.

BEM 554 (6-1-2016) governs how the Department processes a FAP recipient's expenses when determining eligibility and benefit levels. The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc. Do **not** prorate the h/u standard even if the heating/cooling expense is shared. BEM 554, p.14.

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. BEM 554, p.15.

According to RFT 255 (10-1-2016), p. 1, the h/u standard deduction for all FAP recipients was changed to \$[REDACTED] effective October 1, 2016.

Here, Petitioner's arguments that the Department has nefarious motives when it makes changes to the standard deductions or housing costs is not persuasive. In addition, Petitioner appears to challenge the Department's practice of making changes or updates to its policies. In this regard, it should be noted that administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. See Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280. Rather, the ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. In this particular instance, the Department changed the h/u standard for all FAP recipients and there is no evidence that Petitioner was specifically targeted or that the Department otherwise acted improperly when it reduced his monthly FAP allotment by \$[REDACTED].

During the hearing, Petitioner did not dispute the Department's calculations. In this matter, the parties did not dispute that Petitioner was receiving monthly unearned income in the amount of \$[REDACTED] at the time relevant to this matter. Petitioner's countable unearned monthly income of \$[REDACTED], which is reduced by a standard deduction of \$[REDACTED], leaves an adjusted gross income of \$[REDACTED]. [Dept. Exh. 1, pp. 2-3]. Per RFT 255, the h/u standard of \$[REDACTED] was added to Petitioner's housing expenses of \$[REDACTED] which resulted in a total shelter amount of \$[REDACTED]. This amount (\$[REDACTED]) minus 50% of the adjusted gross income (\$[REDACTED]) equals \$[REDACTED]. The adjusted excess shelter amount is \$[REDACTED]. An excess shelter deduction of \$[REDACTED] was subtracted from Petitioner's adjusted gross income of \$[REDACTED] resulting in Petitioner receiving \$[REDACTED] in net income. [Dept. Exh. 1, pp. 2-3].

A Petitioner with a group size of 1 has a maximum net income limit of \$[REDACTED]. RFT 250 (10-1-2016), p. 1. Because Petitioner had a certified group size of 1 and a total countable monthly income of \$[REDACTED], the food issuance tables indicate that the proper monthly FAP allotment is \$[REDACTED]. See RFT 260 (10-1-2016), p. 5.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly calculated Petitioner's monthly FAP allotment as \$[REDACTED] for the benefit period beginning October 1, 2016.

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.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell

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]