



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 14, 2016
MAHS Docket No.: 16-013193
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner), and his son/caretaker, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] Case Manager, and [REDACTED], Family Independence Manager.

ISSUES

1. Did the Department properly determine Petitioner's Food Assistance Program (FAP) group composition effective [REDACTED]?
2. Did the Department properly calculate Petitioner's FAP allotment effective [REDACTED]?

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 is an ongoing recipient of FAP benefits. Exhibit B, p. 3.
2. Petitioner's FAP group composition is four and consists of the following household members: (i) Petitioner; (ii) Petitioner's spouse; (iii) Petitioner's daughter; and (iv) Petitioner's son (who is age [REDACTED]-years-old).
3. Petitioner and his spouse each receive \$[REDACTED] in monthly Supplemental Security Income (SSI) benefits, and they receive quarterly State SSI Payments (SSP).

4. Petitioner's daughter receives \$ [REDACTED] in monthly Family Independence Program (FIP) benefits.
5. Petitioner's son receives \$ [REDACTED] in monthly State Disability Assistance (SDA) benefits.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were approved for \$ [REDACTED] effective [REDACTED] for a group size of four. Exhibit B, pp. 1-2. However, Petitioner actually received \$ [REDACTED] in FAP benefits effective [REDACTED] Exhibit B, pp. 3-5.
7. On [REDACTED], Petitioner file a hearing request, protesting the Department's action. Exhibit A, p. 3.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matters

First, Petitioner filed a request for hearing “regarding Notice of Case Action dated [REDACTED].” Exhibit A, p. 4. Based on this request, the undersigned will only address Petitioner’s concerns as it relates to this notice. During the hearing, Petitioner referenced other Administrative Law Judge (ALJ) hearing decisions (i.e., ALJ Lynn Ferris, Exhibit A, pp. 10-13). However, the undersigned ALJ is not addressing any of the previous hearing decisions. Petitioner requested the hearing only to dispute the Notice of Case Action dated [REDACTED].

Second, based on Petitioner’s hearing request and testimony, he disputed the following: (i) Petitioner’s FAP group composition effective [REDACTED]; and (ii) the amount of his FAP allotment effective [REDACTED]. The undersigned will address each of these issues below:

Group composition

In the present case, the Department determined that Petitioner’s FAP group composition is four and consisted of the following household members who all reside together: (i) Petitioner; (ii) Petitioner’s spouse; (iii) Petitioner’s daughter; and (iv) Petitioner’s son (who is age [REDACTED]-years-old). The Department argued that all members of the household were mandatory group members.

In response, Petitioner argued that the group composition should be three and that his son, [REDACTED], should be on a separate FAP case. Petitioner testified that his son, his caretaker and an SDA recipient, should not be part of his FAP group composition. In fact, Petitioner provided documentation in his attempt to support his claim that stated the following, “FY 2016, SDA recipients with no other income are eligible to receive \$[REDACTED] per month in food assistance. SDA cases can be comprised of a single person or spouses who live together.” Exhibit A, p. 6. Petitioner reiterated this argument several times throughout the hearing that because his son is an SDA recipient with no other income, he should be on his own FAP case and receive the maximum allotment. The undersigned disagrees.

FAP group composition policy states that children under [REDACTED] years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (October 2015), p. 1.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it determined that Petitioner’s son is a mandatory group member, resulting in a household composition of four. The undersigned ALJ attempted to review policy and could not find the policy citation that Petitioner argued. See Exhibit A, p. 6. Petitioner’s argument might be valid if his son lived on his own and with no other income. But due to his son living with his parents, and he is under [REDACTED] years of age, BEM 212 - FAP Group Composition is the controlling policy in this case. Because Petitioner’s son is under [REDACTED] years of age and lives with his parents, the son must be in the same group as the Petitioner. BEM 212, p. 1. As such, the undersigned ALJ finds that Petitioner’s FAP

group composition is four effective [REDACTED]. Furthermore, the Department will take the son's income into consideration when determining the FAP group allotment.

FAP allotment

As shown in the above analysis, the evidence established that Petitioner's FAP group composition is four. Nevertheless, Petitioner also disputed the amount of his FAP allotment effective [REDACTED]. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were approved for \$ [REDACTED] effective [REDACTED]. Exhibit B, pp. 1-2. However, Petitioner actually received \$ [REDACTED] in FAP benefits effective [REDACTED]. Exhibit B, pp. 3-5. It is unclear why there was a \$ [REDACTED] difference. Nonetheless, Petitioner ultimately disputed his FAP allotment for [REDACTED], which the undersigned ALJ addresses below.

In the present case, Petitioner's certified group size is four, and there are senior/disabled/disabled veteran (SDV) members. As part of the evidence record, the Department presented the [REDACTED] budget for review. Exhibit B, pp. 4-5.

First, the Department calculated Petitioner's gross unearned income to be \$ [REDACTED] Exhibit B, p. 4. The Department indicated that this amount consisted of the following: (i) \$ [REDACTED] of Petitioner's monthly SSI income; (ii) \$ [REDACTED] of the spouse's monthly SSI income; (iii) \$ [REDACTED] of the daughter's monthly FIP allotment; (iv) \$ [REDACTED] of the son's monthly SDA; (v) \$ [REDACTED] monthly average of Petitioner's SSP income (\$ [REDACTED] check issued quarterly); and (vi) \$ [REDACTED] monthly average of the spouse's SSP income (\$ [REDACTED] check issued quarterly). Policy states that the Department counts the gross unearned income of current Social Security Administration (SSA)-issued SSI, SSP payments, and FIP and SDA cash assistance. See BEM 503 (July 2016), pp. 14-15 and 32-33. However, when the undersigned ALJ adds all of these amounts together, the result is \$ [REDACTED] not \$ [REDACTED] as shown in the budget. Exhibit B, p. 4. The issue in the calculation appears to be with the SSP payments. RFT 248 states that that an independent living/couples with a monthly SSA-issued SSI payment of [REDACTED], is eligible to receive a monthly SSP payment of \$21 (\$ [REDACTED] each). RFT 248 (January 2016), p. 1. Thus, if the undersigned takes into consideration the \$ [REDACTED] in monthly SSP payments and adds the remaining unearned income, this results in a total income of \$ [REDACTED] which is in more in line with the budget calculation. Nonetheless, the Department failed to present any evidence showing the actual amount of SSP payments Petitioner and his spouse receive. As such, the Department failed to satisfy its burden of showing that it properly calculated Petitioner's gross unearned income in accordance with Department policy. The Department is ordered to recalculate the gross unearned income. See BEM 503, pp. 14-15 and 32-33 and RFT 248, pp. 1-3.

Next, the Department properly applied the \$ [REDACTED] standard deduction applicable to Petitioner's group size of four. Exhibit B, p. 4 and RFT 255 (October 2016), p. 1. Moreover, the Department calculated Petitioner's dependent care deduction, medical deduction, and child support deduction as zero, which he appeared not to dispute. Exhibit B, p. 4.

Finally, the Department presented Petitioner's Excess Shelter Deduction budget (shelter budget) for [REDACTED]. Exhibit A, p. 6. The shelter budget indicated Petitioner's housing expenses were \$ [REDACTED] which consisted of Petitioner's monthly property taxes of \$ [REDACTED] plus Petitioner's son rental obligation to Petitioner of \$ [REDACTED]. Petitioner appeared not to dispute these calculations. Also, the Department provided Petitioner with the \$ [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$ [REDACTED] amount. Exhibit B, p. 6; BEM 554 (June 2016), pp. 14-16; and RFT 255, p. 1.

Nevertheless, because the Department failed to establish that it properly calculated Petitioner's gross unearned income, the Department is ordered to recalculate Petitioner's FAP allotment effective [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 (i) the Department acted in accordance with Department policy when it determined that Petitioner's FAP group composition is four effective [REDACTED]; and (ii) the Department failed to satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective [REDACTED].

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP group composition and **REVERSED IN PART** with respect to FAP allotment.

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 the FAP budget (including unearned income) effective [REDACTED];
2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its FAP decision.

EJF/jaf



Eric J. Feldman

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]