



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 28, 2016
MAHS Docket No.: 16-013659
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 October 18, 2016, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-15.

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 is an ongoing recipient of FAP benefits with a group size of one. (Exhibit A, p. 13)
2. Petitioner had been receiving a FAP monthly allotment of \$ [REDACTED] in part based on \$ [REDACTED] being allowed for a medical expense deduction. (Exhibit A, p. 9)

3. The Department re-calculated the FAP budget for the benefit period starting October 1, 2016, as there were changes in some of the standards the Department utilizes. The Department did not include any medical expense deduction for Petitioner in this budget because there was no recent verification of medical expenses. (Exhibit A, pp. 7 and 13-15; APS Testimony)
4. On September 10, 2016, a Notice of Case Action was issued to Petitioner stating the FAP monthly allotment would decrease to \$[REDACTED] starting October 1, 2016. (Exhibit A, pp. 3-4)
5. Later in September 2016, the Department requested that Petitioner provide verification of medical expenses by an October 3, 2016, due date. (Exhibit A, pp. 6-7)
6. On September 16, 2016, Petitioner filed a Request for Hearing to contest the Department's determination. (Exhibit A, p. 2)

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.

The Department is to request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The Department is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130, July 1, 2016, pp. 1-7.

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 Social Security Administration (SSA) issued Retirement Survivors and Disability Insurance (RSDI) as unearned income. The Department counts the gross amount of current SSA-issued Supplemental Security Income (SSI) as unearned income. BEM 503, (July 1, 2016), p. 28 and 31-32. As of October 1, 2016, the FAP standard deduction for a group size of 1-3 persons is \$151.00. RFT 255, (October 1, 2016), p. 1.

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.

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. As of October 1, 2016, the full h/u standard is \$526. RFT 255, (October 1, 2016), p. 1.

For groups with one or more senior/disabled/disabled veteran (SDV) FAP group members, the Department also uses: dependent care expense; excess shelter; court ordered child support and arrearages paid to non-household members; and medical expenses for the SDV member(s) that exceed \$35. BEM 554, p. 1. The types of allowable medical expenses are limited and the medical bill cannot be overdue. Acceptable verification must be provided, which includes current bills or written statement from the provider that show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid. BEM 554, pp. 8-12.

In this case, Petitioner had been receiving a FAP monthly allotment of \$[REDACTED] in part based on \$[REDACTED] being allowed for a medical expense deduction. (Exhibit A, p. 9)

The Department re-calculated the FAP budget for the benefit period starting October 1, 2016, as there were changes in some of the standards the Department utilizes. The Department did not include any medical expense deduction for Petitioner in this budget because there was no recent verification of medical expenses. (Exhibit A, pp. 7 and 13-15; APS Testimony) On September 10, 2016, a Notice of Case Action was issued to Petitioner stating the FAP monthly allotment would decrease to \$[REDACTED] starting October 1, 2016. (Exhibit A, pp. 3-4)

However, later in September 2016, the Department requested that Petitioner provide verification of medical expenses by an October 3, 2016, due date. (Exhibit A, pp. 6-7)

Petitioner testified that a year or two ago, a prior Department worker asked him to stop bringing in documentation of his current medical expenses because it was too much

work to keep re-calculating the FAP budget. This Department worker indicated she was going to allow an ongoing medical expense deduction in Petitioner's FAP budget without him providing ongoing verification of the medical expenses. Additionally, Petitioner testified that \$[REDACTED] was way too low for his monthly medical expenses. Petitioner stated his medical expenses this month were \$[REDACTED] (Petitioner Testimony)

The Department properly included the updated standards (standard deduction of \$151 and full h/u standard of \$526) in calculating the FAP budget pursuant to the above cited BEM and RFT policies.

However, the Department failed to request the needed verification of current medical expenses before re-determining Petitioner's eligibility for FAP. The Department had reason to believe that Petitioner may have ongoing medical expenses because \$[REDACTED] had been included in the prior FAP budget for a medical deduction. It appears that the verification of current medical expenses was not requested until late September 2016, based on the October 3, 2016 due date. (Exhibit A, pp. 6-7) Accordingly, the evidence indicates that the needed verification of current medical expenses was requested after the September 10, 2016, Notice of Case Action was issued. Therefore, the Department's calculation of Petitioner's FAP monthly allotment must be reversed.

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 determined the amount of Petitioner's FAP monthly allotment.

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. Re-determine Petitioner's eligibility for FAP retroactive to the October 1, 2016, effective date, in accordance with Department policy, which would include issuing written notice of the determination and supplementing for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified.



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]