



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: December 13, 2016
MAHS Docket No.: 16-016666
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 5, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 ongoing FAP benefit recipient.
2. Petitioner was the only member of her household.
3. Petitioner's FAP eligibility was last subject to review in early January 2016.
4. Petitioner neither reported, nor submitted, medical expenses to MDHHS at least since December 2015.

5. On [REDACTED], MDHHS determined Petitioner's FAP eligibility, effective October 2016, to be [REDACTED], in part, by factoring \$0 medical expenses.
6. On [REDACTED], Petitioner requested a hearing to dispute her FAP eligibility for October 2016.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a reduction in FAP eligibility, effective October 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-3) dated September 10, 2016. The presented notice stated Petitioner was eligible for \$[REDACTED] in FAP benefits beginning October 2016.

Two reasons were stated on the notice for the newly determined FAP benefit. The notice stated Petitioner's FAP eligibility was reduced, in part, due to a change in shelter deduction or income; no specific explanation was given for the change. The notice also stated Petitioner's medical expenses were reduced. MDHHS testimony indicated previous FAP determinations erroneously factored medical expenses from 2012.

The MDHHS explanations for the FAP reduction were credible, however, FAP determinations are calculated independently from previous months' eligibility. The Notice of Case Action included a budget summary (see Exhibit 1, p. 2) listing all FAP various budget factors for October 2016. MDHHS also provided budget pages (Exhibit 1, pp. 4-6) which listed all FAP budget factors. During the hearing, each factor was discussed with Petitioner.

BEM 556 details the calculations for determining FAP eligibility. Those calculations will be applied to the below analysis.

MDHHS factored a [REDACTED]/month gross unearned income for Petitioner. Petitioner conceded the amount to be correct.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For

groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner was a SDV member.

Verified countable medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care or child support expenses. Petitioner disputed the absence of medical expenses being budgeted.

Petitioner did not bring proof of any medical expenses to the hearing. Petitioner testimony alleged she last reported and/or submitted medical expenses to MDHHS in February 2016. MDHHS responded by testifying that a check of Petitioner's previous submissions revealed no medical expense submission since at least December 2015.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2016), p. 11. Changes must be reported within 10 days of receiving the first payment reflecting the change. *Id.*

Generally, if a client does not report or submit medical expenses, MDHHS has no reason to budget the expenses. Petitioner contended she should be excused from not reporting or submitting medical expenses. To support her contention, Petitioner cited MDHHS words from a mid-certification reporting document. It was not disputed MDHHS boilerplate language on the form read, "You may, but do not have to, report changes in medical expenses..." Petitioner interpreted the language as an expectation that whatever medical expenses which were previously budgeted would continue.

If Petitioner established that previously submitted medical expenses were current and expected to continue, Petitioner's expectation might be reasonable. MDHHS testimony credibly indicated previously budgeted medical expenses were from 2012 and were one-time only expenses. Petitioner did not rebut the MDHHS testimony. Petitioner did not even bring medical expenses to the hearing despite receiving multiple notices (a Notice of Case Action as well as a Hearing Summary) indicating a change in medical expenses were a factor in the disputed FAP determination.

It is found Petitioner failed to report or verify medical expenses. Accordingly, MDHHS properly factored Petitioner's expenses to be \$0. Petitioner can submit her medical expenses to MDHHS for consideration in future FAP budgets.

Petitioner's FAP benefit group size justifies a standard deduction of \$[REDACTED] (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$[REDACTED]

MDHHS budgeted Petitioner's rent to be [REDACTED]. Petitioner conceded the amount to be accurate.

MDHHS credited Petitioner with a utility standard of \$ [REDACTED] (see RFT 255). The utility standard incorporates all utilities and is the maximum credit available. Petitioner's total shelter expenses (housing + utilities) are found to be \$ [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$ [REDACTED] (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$ [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance for October 2016 is found to be [REDACTED], the same amount calculated by MDHHS.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$ [REDACTED] in FAP benefits for October 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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]

[REDACTED]

Petitioner

[REDACTED]