



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: December 13, 2016
MAHS Docket No.: 16-016933
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 7, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator, and [REDACTED], specialist.

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 a member of a 5-person FAP benefit group.
3. Petitioner had gross employment income of [REDACTED]/month.
4. Petitioner was responsible for payment of heat.
5. Petitioner's FAP benefit group had no unearned income.

6. On an unspecified date, MDHHS determined Petitioner was eligible for \$ [REDACTED] in FAP benefits, effective November 2016, in part, based on \$ [REDACTED]/month in employment income, \$ [REDACTED] in unearned income, and no credit for a heat obligation.
7. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility for November 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 (RTM).

Petitioner requested a hearing to dispute FAP eligibility. Petitioner testified she specifically disputed a recently determined FAP benefit issuance of \$ [REDACTED].

MDHHS presented an Eligibility Summary (Exhibit 1, p. 1). The summary listed Petitioner received \$ [REDACTED] in FAP benefits beginning in November 2016. After seeing the summary, Petitioner testified she agreed her FAP benefit dispute began November 2016.

MDHHS did not present a FAP benefit budget for November 2016 reflecting how the \$ [REDACTED] issuance was determined. During the hearing, MDHHS provided testimony of all FAP budget factors. During the hearing, Petitioner was asked about each budget factor.

BEM 556 details the procedures for determining FAP eligibility. The below analysis incorporates presented evidence and the calculations required of BEM 556

MDHHS factored Petitioner's employment income to be [REDACTED]. MDHHS presented biweekly earning statements for Petitioner from September 2016. The presented statement verified gross employment income of \$ [REDACTED] and \$ [REDACTED].

MDHHS converts bi-weekly stable income into a 30 day period by multiplying the income by 2.15 (see BEM 505 (April 2016), p. 4). Bridges counts gross [employment] wages... BEM 501 (July 2014), p. 7.

Multiplying Petitioner's average biweekly wages by 2.15 results in a countable income of \$ [REDACTED], the same amount calculated by MDHHS. It is found MDHHS properly calculated Petitioner's household employment income.

MDHHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$ [REDACTED] (dropping cents).

MDHHS factored Petitioner's unearned income to be \$ [REDACTED]. MDHHS testimony indicated the amount was based on child support income which was not recently received by Petitioner. MDHHS testimony conceded that \$0 is Petitioner's proper amount of unearned income. The concession is consistent with BEM 505 which directs MDHHS to factor within FAP budgets the last 3 months of child support. It is found MDHHS erred by not factoring Petitioner's unearned income of \$0.

For purposes of determining if MDHHS performed the proper FAP benefit calculation, the analysis will proceed by counting the erroneously factored unearned income. Counting \$ [REDACTED] in unearned income results in a running income total of \$ [REDACTED].

[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's FAP group had no SDV members.

Verified countable medical expenses (for SDV groups only), child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having child support or day care expenses.

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 rental obligation to be [REDACTED]. Petitioner testimony conceded her rental obligation was actually lower. For purposes of this decision, it will be found that MDHHS correctly factored \$ [REDACTED] (the amount more favorable for Petitioner).

MDHHS credited Petitioner for water bill and telephone obligations. MDHHS issued the corresponding standard expense credits (\$ [REDACTED] and \$ [REDACTED] - see RFT 255). MDHHS testimony conceded Petitioner was entitled to receive the standard heat/utility credit. The heat/utility standard incorporates all utilities and is the maximum credit available. It is found MDHHS erroneously failed to credit Petitioner with the standard heat/utility credit.

For purposes of the remaining analysis only, the FAP budget calculation will proceed using the erroneously budgeted utility credit of \$[REDACTED]. Petitioner's total budgeted shelter expenses (housing + utilities) are \$[REDACTED].

For purposes of determining if MDHHS performed the proper FAP benefit calculation, the analysis will proceed by counting the erroneously factored utility credits. Counting the erroneously factored utility credits results in shelter expenses (housing + utilities) of \$[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 would be \$0.

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 (with incorrectly budgeted unearned income and utilities) is found to be \$[REDACTED]. A chart listed in RFT 260 dictates the proper FAP benefit issuance. Based on Petitioner's group size and calculated net income Petitioner's FAP benefit issuance for November 2016 would be \$[REDACTED], the same amount calculated by MDHHS. Thus, the FAP calculation appears to have no errors other than improperly budgeted unearned income and utility credits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's FAP eligibility for November 2016, subject to the following findings:
 - a. Petitioner's unearned income is \$0; and
 - b. Petitioner is entitled to the heat/utility standard; and
- (2) Issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

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]