



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 15, 2016
MAHS Docket No.: 16-017079
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Property Tax expense for determining excess shelter expenses?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner is an ongoing recipient of Food Assistance Program (FAP) benefits.
2. The Petitioner has entered into a Payment Plan with the [REDACTED] County Treasurer for the payment of delinquent property taxes. Exhibit C.
3. The Department used the Petitioner's 2015 property taxes of \$ [REDACTED] to determine the Petitioner's monthly property tax expense when calculating the Petitioner's FAP benefits. Exhibit A.

4. The Department determined that the Petitioner's monthly property expense was \$ [REDACTED] Exhibit B.
5. The Petitioner requested a timely hearing on [REDACTED].

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 this case, the Department calculated the Petitioner's FAP benefits and used her 2015 property taxes of \$ [REDACTED] to determine the monthly expense for property taxes when calculating the Petitioner's FAP benefits and the excess shelter housing expenses. Exhibit A. The Petitioner requested a hearing contending the Department should use her monthly payments being made to the taxing authority to pay her 2014 and 2015 tax delinquencies. To that end, the Petitioner presented a payment plan that she has entered into with the [REDACTED] County Treasurer where she paid between \$ [REDACTED] and \$ [REDACTED] monthly through [REDACTED]. The Petitioner also provided her monthly payments made in that regard since [REDACTED]. Exhibit C.

When determining the monthly amount of an annual property tax expense, the Department is directed to average the bill over 12 months beginning with the first billing of the year. BEM 554, (October 1, 2016), p. 4.

Department policy provides:

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are not an allowable expense. BEM 554, p.12. (emphasis supplied)

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, for example, furniture, clothing and personal belongings. Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately. Renter's insurance is **not** allowed. BEM 554, p. 13.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. BEM 554, p. 13.

In this case, the Department presented evidence and contended that as regards the Petitioner's request to use her current payment of tax arrearages for delinquent taxes as her property tax expense, that it could not use the expenses as the Petitioner had already been granted tax expenses in prior FAP budgets that were now delinquent fees not actual taxes due. The Department contended that pursuant to Department policy, the Petitioner is not entitled to now use the delinquency payments as a current tax payment. The Petitioner confirmed she has a tax bill for 2016 and was encouraged to submit the annual tax bill because the Department is using the 2015 taxes in the amount of \$ [REDACTED] when determining monthly property tax expense. The Department has determined that the Petitioner monthly property tax expense is \$ [REDACTED] (\$ [REDACTED]).

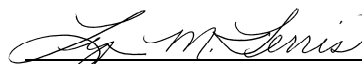
Based upon the evidence presented it is determined that the Department correctly determined the Petitioner's monthly property tax expense by using the 2015 taxes as they were the best information available and that it correctly determined that it could not use the tax delinquency payments as a property tax expense in accordance with Department policy.

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 acted in accordance with Department policy when it calculated the Petitioner's monthly property tax expense when determining FAP benefits. .

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

LME/jaf



Lynn M. Ferris

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]