



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 28, 2016
MAHS Docket No.: 16-017175
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, an in-person hearing was held on December 21, 2016, from Inkster, Michigan. The Petitioner was represented by himself. His wife, [REDACTED], also appeared as a witness. A Department interpreter, [REDACTED] also appeared as a [REDACTED] Interpreter. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) Benefits?

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 was an ongoing FAP recipient.
2. On [REDACTED], the Department issued a Notice of Case Action increasing the Petitioner's FAP benefits to \$ [REDACTED] per month effective [REDACTED]. Exhibit 5.
3. The Department used two pay stubs received from the Petitioner for his wife's employment to verify the income in the amounts of \$ [REDACTED] and \$ [REDACTED]. The pay

stubs were for pay dates [REDACTED], and [REDACTED] respectively; and both included overtime pay. The Petitioner is paid biweekly. Exhibit 2.

4. The Petitioner pays lot rent for their mobile home of \$ [REDACTED] and pays for heat and electricity. The Petitioner does not pay for home insurance.
5. The Petitioner's group size is [REDACTED]
6. The Petitioner requested a timely hearing on [REDACTED], protesting the amount of the FAP benefits.

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 issued a Notice of Case Action to the Petitioner increasing FAP benefits to \$ [REDACTED] effective [REDACTED]. Exhibit 5. The Petitioner requested a hearing as he believed that he was entitled to more FAP benefits. The benefits were increased based upon recent pay stubs from Petitioner's wife's employment and which were reviewed and confirmed at the hearing by Petitioner's wife. Exhibit 2. The FAP budget was reviewed at the hearing, and it was determined based upon the two pay stubs provided that the Department properly determined the earned income to be \$ [REDACTED] Exhibits 2 and 3. In addition, the Excess Shelter calculation was also reviewed and was determined to be incorrect due to including the cost of homeowner's insurance in the amount of \$ [REDACTED] which the Petitioner testified he did not pay on his mobile home. The Petitioner testified that his rent is \$ [REDACTED] and that he pays for heat and electricity. Based upon the error created by including the cost of homeowner's insurance, the Department must recalculate the FAP budget to determine the correct excess shelter deduction. The Department also correctly included the utility allowance of \$ [REDACTED] as a shelter cost.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (January 1, 2016), pp. 1-4. The Department considers the gross amount of money earned from

employment in the calculation of earned income for purposes of FAP budgeting. BEM 501 (July 2016), pp. 6-7.

The deductions to income on the net income budget were also reviewed.

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (June 1, 2016), pp. 1-30; BEM 556 (July 2013), p. 4-5.

The Petitioner's wife has earned income and is paid biweekly. Department policies found in BEM 505 require that the average weekly or biweekly check be determined by adding the checks together and dividing by number of checks. Once this amount is determined, it is either multiplied by 4.3, if the checks are earned weekly, or by 2.15 if biweekly. BEM 505 (July 2016) pp. 5-9.

As regards the Department's calculation of the FAP group income, this income was based upon the Petitioner's wife's earned income as Petitioner currently is not working due to a disability. The two pay stubs used by the Department and provided by the Petitioner were in the amounts of \$ [REDACTED] and \$ [REDACTED] Exhibit 2. These pay stubs total \$ [REDACTED]. The final net pay used to calculate the FAP benefits is determined by dividing the net pay by two and multiplying the number by 2.5 as the Petitioner's wife is paid biweekly. $\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] \div 2 = \$ [REDACTED] \times 2.15 = \$ [REDACTED]$

As discussed at the hearing, the Petitioner's FAP group income may have changed again as the Petitioner's wife's work hours have been reduced. Once this change is reported, the FAP benefits will be recomputed again.

In conclusion, the FAP benefits as calculated were incorrect and must be recalculated to include the correct shelter expense.

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 calculated the Petitioner's FAP benefits for [REDACTED], particularly with respect to the excess shelter calculation.

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. The Department shall recalculate the Petitioner's FAP benefits in accordance with Department policy and this Hearing Decision.
2. The Department shall provide the Petitioner written notice of its determination.

LMF/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]