



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: January 27, 2017
MAHS Docket No.: 16-019080
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 January 25, 2017, from Lansing, Michigan. Petitioner appeared and represented herself. Petitioner did not offer any witnesses. [REDACTED] Family Independence Manager (FIM), appeared on behalf of the Department of Health and Human Services (Department). [REDACTED] Eligibility Specialist (ES), testified as a witness for the Department.

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1:** Hearing Summary 12/21/16 [p. 1], Request for Hearing (email) 12/20/16 [p. 2], Letter re: Prehearing Conference 12/20/16 [p. 2], Request for Hearing (email) 12/20/16 [p. 3], Bridges FAP-EDG Net Income Results [pp. 4-5], Bridges FAP Excess Income Shelter Deduction [p. 6], Bridges Unearned Income Budget-Summary [p. 7], Consolidated Income Inquiry-Search [p. 8], Child Support [p. 9], MDHDA Housing Adjustment Notification 8/1/2016 [p.10], Employment Budget-Summary [p. 11], The Work Number (employment verification) [pp. 12-13], Paycheck Stub from [REDACTED] [pp.14-15], Document Record [p. 16], and Assistance Application 12/1/16 pp. 17-37]. [**Department's Exhibit 2:** Notice of Case Action 12/12/16 [pp. 38-44].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit monthly allotment amount?

FINDINGS OF FACT

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

1. On December 1, 2016, Petitioner submitted an online application seeking FAP and other benefits. [Department's Exhibit 1, pp. 17-37].
2. Petitioner had a FAP group size of 3, which consisted of Petitioner and her 2 minor children. [Dept. Exh. 1, pp. 21-23].
3. Petitioner is not a senior (age 65 or older), disabled or a veteran. [Dept. Exh. 1, pp. 17-37].
4. The Department verified Petitioner's income and expenses. [Hearing Testimony].
5. At the time of application, Petitioner was employed at [REDACTED] and received \$ [REDACTED] per month in earned income. [Dept. Exh. 1, pp. 4, 12-15].
6. Petitioner received approximately \$ [REDACTED] per month in unearned income for child support. [Dept. Exh. 1, pp. 4, 9].
7. Petitioner's \$ [REDACTED] monthly housing cost was paid by the Michigan State Housing Development Authority (MSHDA). [Dept. Exh. 1, p. 10].
8. On December 12, 2016, the Department mailed Petitioner a Notice of Case Action, which, among other things, approved Petitioner's monthly FAP benefits in the amount of \$ [REDACTED] effective December 2, 2016, through December 31, 2016.
9. On December 20, 2016, Petitioner verbally requested a hearing to dispute the Department's decision concerning the amount of her monthly FAP benefits. [Dept. Exh. 1, p. 1].

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

¹ This was a prorated amount. The actual regular monthly FAP allotment was calculated to be \$ [REDACTED]

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 the instant matter, Petitioner requested a hearing because the Department, after processing her application for FAP benefits, determined that she was entitled to \$ [REDACTED] per month.

The Department uses countable income to determine eligibility and benefit levels. BEM 500 (1-1-2016), p. 3. Income remaining after applying the policy in the income related items is called "countable." BEM 500, p. 3. For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500, p. 4. "Earned income" means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. "Unearned income" means all income that is not earned. BEM 500, p. 4.

The Department uses gross income when determining countable income. BEM 500, p. 4. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500, p. 4. The amount counted may be more than the client actually receives. BEM 500, p. 4.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505 (7-1-2016), p. 1. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505, p. 1.

A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received) and prospected income amounts (not received but expected). BEM 505, p. 1.

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 3.

But prospective income **may** be used for past month determinations when all of the following are true: (1) income verification was requested and received; (2) payments were received by the client after verifications were submitted and (3) there are no known changes in the income being prospected. BEM 505, p. 3. For current and future

months, policy indicates that the Department should prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505, p. 3. [Emphasis in original].

To prospect income, the Department will need to know: (1) the type of income and the frequency it is received (such as, weekly); (2) the day(s) of the week paid; (3) the date(s) paid; (4) the gross income amount received or expected to be received on each pay date. BEM 505, p. 4.

The Department's computer system known as "Bridges" will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505, p. 8.

All income is converted to a standard monthly amount. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.3. Amounts that are received twice a month are added. But the Department should not convert income for the month income starts or stops if a full month's income is not expected in that month. The Department will use actual income received or income expected to be received in these months. BEM 505, p. 8.

BEM 550 (10-1-2015) describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior², disabled person³ or a veteran member of that group. BEM 550, p. 1. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group⁴ must have income below the net income limits. BEM 550, p. 2. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 2.

The Department will use only available, countable income to determine eligibility. BEM 550, p. 1. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550, p. 1.

² A "senior" is a person at least 60 years old. BEM 550 p 1.

³ A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

⁴ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

The Department will budget the entire amount of earned and unearned countable income. BEM 550, p. 1. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550, p. 1. Every case is allowed the standard deduction shown in RFT 255. BEM 550, p. 1. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550, p. 1.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. At the hearing, Petitioner initially questioned the Department's determination of her monthly income of \$ [REDACTED] however, later Petitioner stated that she understood how the Department determined this figure. Based on the above Findings of Fact, Petitioner was receiving a net monthly earned income from her employment with [REDACTED] and unearned income from child support, which totaled \$ [REDACTED]. Petitioner also received \$ [REDACTED] per month in unearned income from child support. Therefore, Petitioner's group received a total net monthly income of \$ [REDACTED] which is reduced by an earned income deduction of \$ [REDACTED] less a standard deduction of \$ [REDACTED] leaves an adjusted gross income of \$ [REDACTED]. Because Petitioner had no shelter expenses, the Department did not subtract an excess shelter deduction from her adjusted gross income of \$ [REDACTED]. Thus, Petitioner had a total net income of \$ [REDACTED] [Dept. Exh. 1, p. 4].

According to Department policy, an individual with a group size of 3 has a maximum net income limit of \$ [REDACTED] RFT 250 (10-1-2016). Because Petitioner had a certified group size of 3 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the regular monthly FAP allotment should be \$ [REDACTED]. See RFT 260 (10-1-2016). However, Petitioner's proper pro-rated amount for the period of December 2, 2016, through December 31, 2016, was correctly determined to be \$ [REDACTED]. Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly and correctly determined Petitioner's monthly FAP allotment.

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 determined Petitioner's monthly FAP allotment as \$ [REDACTED] pro-rated to \$ [REDACTED].

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell
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]