



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: February 10, 2017
MAHS Docket No.: 17-000290
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 three-way telephone hearing was held on February 7, 2017, from Lansing, Michigan. Petitioner appeared and testified via telephone. [REDACTED] Eligibility Specialist, and [REDACTED] Assistance Payments Supervisor, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [**Department's Exhibit 1:** Hearing Summary, Hearing Request Memo, Request for Hearing, Assistance Application, Bridges Case Comments Summary, Bridges FAP-EDG Net Income Results, Bridges FAP Excess Shelter Deduction, and Notice of Case Action].

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 eligibility for 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. Petitioner submitted an online application for FAP benefits. [Department's Exhibit 1, pp. 5-21].
2. Petitioner had a group size of 2. [Dept. Exh. 1, pp. 6-7].
3. Petitioner is not a senior, disabled, or a veteran.
4. Petitioner was employed at the time of application and she earned \$ [REDACTED] biweekly. [Dept. Exh. 1, p. 6].
5. On December 14, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which indicated that Petitioner's group was not eligible for FAP benefits due to having excess income. [Dept. Exh. 1, pp. 25-27].
6. Petitioner requested a hearing to dispute the denial on January 8, 2017. [Dept. Exh. 1, p. 4].

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.

Here, Petitioner requested a hearing because she disputes the Department's decision to deny her application for FAP benefits due to excess income. Petitioner contends that the Department failed to consider all of her expenses when it determined her household income. Petitioner says that she has the following expenses that should be considered: car insurance, monthly credit card payments and car repair bills. The Department, on the other hand, takes the position that it correctly calculated Petitioner's FAP eligibility based on her income and allowable expenses. The Department asserts that Petitioner was not eligible for FAP at the time because she exceeded the income limit.

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. [Emphasis in original]. For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500, p. 3.

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. The Department will obtain input from the client whenever possible to establish this best estimate amount. 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. [Emphasis in original]. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 1.

All income is converted to a standard monthly amount. BEM 505, p. 1. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505, p. 7. Amounts that are received twice a month are added. BEM 505, p. 7.

BEM 550 (1-1-2017) describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550, p. 1. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550, p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1.

The Department will use only available, countable income to determine eligibility. BEM 550. 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.

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

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

² 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.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

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.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (1-1-2017), p 1. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554, p. 1. [Emphasis in original].

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. In the instant matter, Petitioner was receiving monthly earned income in the amount of \$ [REDACTED] at the time relevant to this matter. [Dept. Exh. 1, p. 6]. This is because Petitioner was being paid \$ [REDACTED] bi-weekly. [Dept. Exh. 1, p. 6]. The Department determined this amount by multiplying Petitioner's gross income by a 2.15 conversion factor in accordance with the applicable Department policy. Thus, \$ [REDACTED] x 2.15 = \$ [REDACTED]. Therefore, Petitioner's group received a total monthly income of \$ [REDACTED] which is reduced by a 20% earned income deduction of \$ [REDACTED] and a standard deduction of \$ [REDACTED] leaves an adjusted gross income of \$ [REDACTED] [See BEM 550, p. 1 and Dept. Exh. 1, p. 23].

An individual with no SDV members and a group size of 2 has a maximum monthly gross income limit of \$ [REDACTED] RFT 250 (10-1-2016). Because Petitioner's monthly gross income of \$ [REDACTED] exceeded the allowable 130% monthly gross income limit of \$ [REDACTED] Petitioner is not entitled to FAP benefits for the time period in question.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly determined that Petitioner exceeded the income limit for FAP benefits. Petitioner's contention that she has additional expenses such as car insurance, car repairs and credit card payments are not allowable based upon BEM 554. The Department properly did not consider these expenses when it budgeted Petitioner's FAP case.

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 denied Petitioner's December 10, 2016 application for FAP benefits due to excess income.

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]