



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: March 30, 2017
MAHS Docket No.: 16-018714
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 March 27, 2017, from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ Assistant Payment Supervisor; and ██████████ Assistant Payment Worker.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2016?

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 is an ongoing recipient of benefits.
2. On October 11, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would increase to ██████████ effective November 1, 2016. Exhibit A, pp. 3-4.
3. On October 19, 2016, the Department sent Petitioner a Notice of Case Action notifying her that that she was approved for the State Supplemental Security Income (SSI) Payments (SSP) effective November 1, 2016. Exhibit A, pp. 5-6.

4. On October 20, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to [REDACTED] effective December 1, 2016. Exhibit A, pp. 7-8.
5. On December 3, 2016, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits would decrease to [REDACTED] effective January 1, 2017. Exhibit A, pp. 9-10.
6. On December 9, 2016, Petitioner verbally requested a hearing, in which she protested the Department's action. Exhibit A, p. 28.

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.

Preliminary matter

As a preliminary matter, Petitioner is protesting the decrease in her FAP benefits for December 2016 and January 2017. The undersigned Administrative Law Judge (ALJ) will address each benefit month separately below:

December 2016

In the present case, the Department decreased Petitioner's FAP benefits to \$ [REDACTED] for December 2016. Exhibit A, p. 7. As such, the Department presented the December 2016 FAP budget for review. Exhibit A, pp. 22-23.

First, it was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member.

Second, the Department calculated Petitioner's gross unearned income to be [REDACTED] which comprised of her SSI income and [REDACTED] monthly average in SSP income [REDACTED] issued quarterly). Exhibit A, pp. 11-13, 18, and 22 and BEM 503 (July 2016 and January 2017), pp. 32-33. Petitioner did not dispute the calculation of her gross unearned income.

Next, the Department properly applied the [REDACTED] standard deduction applicable to Petitioner's group size of one. Exhibit A, p. 22 and RFT 255 (October 2016), p. 1. The Department also calculated Petitioner's medical deduction to be \$0. Exhibit A, p. 22. However, Petitioner argued that she does have medical expenses. She testified that she reported a hospital expense for [REDACTED] in late January 2017 and mailed the verification to the Department in late February 2017. She also reported for the first time during the hearing that she had eye glasses expenses for approximately [REDACTED] and transportation costs for medical treatment. Petitioner also reported medical marijuana expenses, however, policy states that medical marijuana is not an allowable medical expense. BEM 554 (June 2016), p. 11.

In response, the Department testified that on December 21, 2016, Petitioner submitted an improper medical verification. The Department testified that it did eventually receive a medical expense she submitted on March 9, 2017.

Policy states that for groups with one or more SDV member, the Department allows medical expenses that exceed [REDACTED]. BEM 554, p. 1.

During the benefit period, a FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554, p. 8. Process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

BEM 554, p. 8.

The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The expense does not have to be paid to be allowed. BEM 554, p. 11. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department allows only the non-reimbursable portion of a medical expense. BEM 554, p. 11. The medical bill cannot be overdue. BEM 554, p. 11.

The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. The Department does not verify other factors, unless questionable. BEM 554, p. 11. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. BEM 554, p. 11.

Based on the foregoing information and evidence, the undersigned finds that the Department properly did not budget any medical deductions. During the hearing, the undersigned discovered that Petitioner's medical bill submitted in December 2016 was a credit report showing a medical bill past due. The undersigned agrees with the Department that this was not an acceptable verification source for the medical bill in accordance with Department policy. See BEM 554, p. 12 (Acceptable Verifications Sources), p. 12. Moreover, the bill appears to be overdue, which is also not an allowable expenses in accordance with Department policy. See BEM 554, p. 11. Nonetheless, the Department eventually received a medical verification on March 9, 2017, but this bill would not have been applied to the December 2016 budget because it was received after this date. The Department, though, indicated that it did apply the medical expense for the April 2017 budget.

Furthermore, Petitioner reported two additional medical expenses during the hearing, her eye glasses and transportation to secure medical treatment; however, the Department properly did not budget these reported medical expenses. Policy states that the Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11. At the time Petitioner's FAP budget for December 2016 was calculated, Petitioner never reported any of these additional medical expenses. As such, the Department properly did not include these medical expenses in the December 2016 FAP budget because they were never reported to the Department at the time.

In summary, at the time of the December 2016 budget, the Department either did not have acceptable verification of her medical expenses or she had yet to report any additional medical expenses to the Department. Therefore, the Department properly determined that Petitioner did not have any medical deductions for December 2016 in accordance with Department policy. BEM 554, pp. 1-12. But, it should be noted that the Department is now of aware Petitioner's reported medical expenses she stated during the hearing.

Once the Department subtracts the [REDACTED] standard deduction, this results in an adjusted gross income of [REDACTED]. Exhibit A, pp. 22-23.

Also, the Department provides Petitioner with an excess shelter deduction. The FAP – Excess Shelter Deduction budget (shelter budget) indicated that Petitioner's monthly housing expense is [REDACTED] which she did not dispute. Exhibit A, p. 24. The Department also provided Petitioner with the [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$[REDACTED] amount. Exhibit A, p. 24; BEM 554, pp. 14-16; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be [REDACTED] Exhibit A, p. 24. Then,

the Department subtracts the total shelter amount from fifty percent of the \$ [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is [REDACTED] Exhibit A, p. 24. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be [REDACTED] Exhibit A, p. 24.

The Department then subtracts the [REDACTED] adjusted gross income from the [REDACTED] excess shelter deduction, which results in a net income of [REDACTED] Exhibit A, p. 23. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be [REDACTED] effective December 1, 2016. RFT 260 (October 2016), p. 4.

January 2017

In the present case, the Department decreased Petitioner's FAP benefits to [REDACTED] for January 2017. Exhibit A, p. 9. As such, the Department presented the January 2017 FAP budget for review. Exhibit A, pp. 25-26.

First, it was not disputed that the certified group size is one and that Petitioner is a SDV member.

Second, the Department calculated Petitioner's gross unearned income to be [REDACTED] which comprised of her SSI income and [REDACTED] monthly average in SSP income [REDACTED] received quarterly). Exhibit A, pp. 11-13, 18, and 25 and BEM 503 (July 2016 and January 2017), pp. 32-33. Petitioner did not dispute the calculation of her gross unearned income.

Next, the Department properly applied the [REDACTED] standard deduction applicable to Petitioner's group size of one. Exhibit A, p. 25 and RFT 255, p. 1. The Department also calculated Petitioner's medical deduction to be \$0. Exhibit A, p. 25. However, applying the same analysis for the December 2016 medical deduction stated above, the Department also properly determined that Petitioner did not have any medical deductions for January 2017 in accordance with Department policy. BEM 554 (January 2017), pp. 1-12.

Once the Department subtracts the [REDACTED] standard deduction, this results in an adjusted gross income of [REDACTED] Exhibit A, pp. 25-26.

Also, the Department provides Petitioner with an excess shelter deduction. The FAP – Excess Shelter Deduction budget (shelter budget) indicated that Petitioner's monthly housing expense is [REDACTED] which she did not dispute. Exhibit A, p. 27. The Department also provided Petitioner with the [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the [REDACTED] amount. Exhibit A, p. 27; BEM 554, pp. 14-16; and RFT 255, p. 1.

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be [REDACTED] Exhibit A, p. 27. Then, the Department subtracts the total shelter amount from fifty percent of the [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is [REDACTED]. Exhibit A, p. 27. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be [REDACTED] Exhibit A, p. 27.


The Department then subtracts the [REDACTED] adjusted gross income from the [REDACTED] excess shelter deduction, which results in a net income of [REDACTED]. Exhibit A, p. 26. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be [REDACTED] effective January 1, 2017. RFT 260, p. 4.

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 properly decreased Petitioner's FAP benefits effective December 1, 2016, ongoing.

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

EF/tm



Eric J. Feldman
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]
[REDACTED]
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CC: [REDACTED]
[REDACTED]