



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 5, 2017
MAHS Docket No.: 17-004593
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 telephone hearing was held on May 4, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist; and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) allotment to [REDACTED] effective April 1, 2017?

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 FAP benefits.
2. On February 28, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were approved for [REDACTED] effective March 1, 2017. [Exhibit A, pp. 15-20.]
3. On March 1, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to [REDACTED] effective April 1, 2017. [Exhibit A, pp. 9-14.]

4. On March 28, 2017, Petitioner reported to the Department that she stopped working for Total Home Health Services (employer 1).
5. On March 28, 2017, the Department sent Petitioner a Verification of Employment (DHS-38), which was sent to her to verify her stopped employment at employer 1 and it was due back by April 7, 2017. [Exhibit A, pp. 1 and 35-36.]
6. Petitioner also received earned income from Alimar Security Inc. (employer 2) and unearned income, which was child support for two children. [Exhibit A, pp. 27-34.]
7. On March 31, 2017, Petitioner filed a hearing request, protesting her FAP allotment. [Exhibit A, pp. 2-3.]
8. On April 6, 2017, Petitioner submitted the Verification of Employment (DHS-38), which stated her “date employment ended or is expected to end” was April 6, 2017, and the date of her last paycheck was February 17, 2017. [Exhibit A, pp. and 35-36.]
9. The Department indicated it subsequently removed the income from employer 1 and the change will be effective May 1, 2017. [Exhibit A, p. 1.]
10. On April 6, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits increased to [REDACTED] effective May 1, 2017. [Exhibit A, pp. 4-8.]

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 testified that she is not disputing the amount of her FAP allotment for March 2017. She testified she is only disputing the decrease in her FAP benefits to [REDACTED] effective April 1, 2017, which the undersigned Administrative Law Judge (ALJ) will address below:

FAP allotment

In the present case, the undersigned reviewed the FAP budget from April 2017 in the present matter. [Exhibit A, pp. 25-26.]

First, it was not disputed that the certified group size is three and that no group members were senior/disabled/disabled veteran (SDV) members.

Second, the Department calculated Petitioner's gross earned income to be [REDACTED], which she disputed. [Exhibit A, p. 25.] Based on the Department's testimony and evidence, the Department calculated this income based on Petitioner's earnings from employer 1 and employer 2. Starting with employer 2, the Department budgeted [REDACTED] as her monthly gross earnings from this employer. Petitioner's pay stubs reveal that she generally receives a weekly gross income of [REDACTED] from employer 2, which Petitioner did not dispute. [Exhibit A, pp. 29-34.] The Department then multiplied her weekly earnings by the 4.3 equation for weekly income in order to convert the income to a standard monthly amount, resulting in a gross income of [REDACTED] BEM 505 (July 2016), p. 9. The undersigned finds that the Department properly calculated Petitioner's gross earned income from employer 2 in accordance with Department policy. BEM 505, p. 9.

However, there was still a remaining [REDACTED] in gross earned income from the budget that was unaccounted for ([REDACTED] minus [REDACTED]). [Exhibit A, p. 25.] The Department indicated that the remaining [REDACTED] appeared to be her earnings from employer 1. As stated in the *Findings of Fact* section, Petitioner reported on March 28, 2017 that her employment ended with employer 1, which she does not dispute. The Department then subsequently requested verification of her stopped employment, which it received on April 6, 2017. [Exhibit A, pp. and 35-36.] The Department indicated it subsequently removed the income from employer 1 and the change affected her benefits May 1, 2017. [Exhibit A, p. 1.]

In response, Petitioner argued that the Department should have not included her income from employer 1. Petitioner testified that her last pay check from employer 1 was the 1st week of March 2017.

For stopping income, budget the final income expected to be received in the benefit month. BEM 505, p. 8. Use the best available information to determine the amount of the last check expected. BEM 505, p. 8. Use information from the source and from the client. BEM 505, p. 8. Remove stopped income from the budget for future months. BEM 505, p. 8.

Based on the above policy information and evidence, the Department should have not budgeted Petitioner's earned income from employer 1 effective April 1, 2017, ongoing. The undersigned understands that the verification of stopped employment for employer 1 was received on April 6, 2017. However, Petitioner reported in March 2017 to the Department that her income from employer 1 ended. Policy states that the Department

should have removed the stopped income for April 1, 2017, ongoing (a future month) and budgeted the final income in March 2017 using the best available information. See BEM 505, p. 8. Accordingly, the Department is ordered to remove Petitioner's income from employer 1 and not budget this income effective April 1, 2017, ongoing, in accordance with Department policy. See BEM 505, p. 8.

Next, the Department also calculated Petitioner's gross unearned income to be \$■■■■, which was child support income for both of the children who resided with her. [Exhibit A, p. 25.] Policy states that the Department enters child support payments received by a custodial party for an adult child or a child no longer living in the home, as the other unearned income of the payee as long as the money is not forwarded to the adult/child. BEM 503 (January 2017), p. 6. If forwarded to the adult/child, enter as the other unearned income of the adult/child. BEM 503, p. 6. In this case, Petitioner received child support direct (court-ordered) for both children. [Exhibit A, pp. 27-28.] Court-ordered direct support means child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU). Bridges counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503, p. 8. In this case, the Department will budget the court-ordered direct support Petitioner receives for both children. BEM 503, p. 8.

Policy additionally states the Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 5. Include the current month if all payments expected for the month have been received. BEM 505, p. 5. Do not include amounts that are unusual and not expected to continue. BEM 505, p. 5.

In the present case, the Department used the benefit months of January 2017 to March 2017 to calculate the child support income from the "Child Support – Search" document provided for the evidence record. [Exhibit A, pp. 27-28.] However, when the undersigned calculated the average of the child support income, the undersigned calculated a total income of ■■■■ which is different from the ■■■■ as shown in the budget. [Exhibit A, p. 25.] As such, the undersigned finds the Department did not properly calculate the child support income in accordance with Department policy. The Department is ordered to recalculate the child support income effective April 1, 2017, in accordance with Department policy. BEM 505, pp. 5-6.

Next, the Department applied the ■■■■ standard deduction applicable to Petitioner's group size of three. [Exhibit A, p. 25 and RFT 255 (October 2016), p. 1.] Petitioner also did not qualify and/or was not eligible for the dependent care, medical deduction, and child support deductions. [Exhibit A, p. 25.]

Also, the Department presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is ■■■■, which consisted of her property taxes (average over 12 months). [Exhibit A, p. 42.] Petitioner did not dispute this amount. Moreover, the Department also provided Petitioner with the

█████ 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 █████ amount. [Exhibit A, p. 42; BEM 554 (January 2017), pp. 14-16; and RFT 255, p. 1.]

In sum, because the Department did not properly calculate Petitioner's earned and unearned income, the Department is ordered to recalculate Petitioner's FAP allotment effective April 1, 2017, ongoing, 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 did not act in accordance with Department policy when it improperly calculated Petitioner's FAP allotment effective April 1, 2017, ongoing.

Accordingly, the Department's FAP 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. Recalculate the FAP budget, including the child support income, for April 1, 2017, ongoing;
2. Remove the employer 1 earned income and do not budget this income effective April 1, 2017, ongoing;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from April 1, 2017, ongoing; and
4. Notify Petitioner of its decision.

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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

cc:

[REDACTED]

[REDACTED]

[REDACTED]