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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: May 22, 2017
MAHS Docket No.: 17-005300
Agency No.: ██████████
Petitioner: ██████████

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, a telephone hearing was held on ██████████ from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by ██████████ Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's monthly 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 is an ongoing recipient of FAP benefits.
2. The Petitioner receives unearned income from Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ ██████████ monthly and also pays property taxes on her home in the amount of \$ ██████████ and homeowner's insurance in the amount of \$ ██████████ [Exhibit B.]
3. The Petitioner has a group size of one and pays for heat.

4. The Petitioner verbally requested a hearing on [REDACTED], protesting the amount of her 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 Petitioner sought review of her FAP benefit amount as she thought it was too low. The Petitioner currently receives \$[REDACTED] monthly in FAP benefits. [Exhibit A.]

The following facts were confirmed as correct by Petitioner at the hearing. The Petitioner receives \$[REDACTED] in RSDI for a total monthly gross income of \$[REDACTED]. The Petitioner does not pay a Medicare Part B premium. Petitioner pays for heat and received a \$[REDACTED] heat and electricity allowance. [See Exhibit B.] The Petitioner receives RSDI and thus, is deemed disabled. The Department determined monthly housing costs based upon homeowners insurance of \$[REDACTED] (\$[REDACTED] annual) and property taxes of \$[REDACTED] (\$[REDACTED] 5 annual). The Department provided verification of how it determined the monthly costs of taxes and insurance at the hearing and provided proof of using these amounts when calculating the Petitioner's shelter costs. The Department correctly calculated excess shelter expense to be \$[REDACTED].

At the hearing, the Department presented the FAP EDG Net Income Results Budget for [REDACTED], which was reviewed to determine if the Department properly concluded that Petitioner was eligible to receive \$[REDACTED] in monthly FAP benefits.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1-4. The Department considers the gross amount of money earned or received from RSDI Social Security income due to disability. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has an FAP group of one member and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

In this case, Petitioner did not have any earned income; and there was no evidence presented that she had any dependent care, or paid child support. The Petitioner did not pay any medical expenses and did not pay a Part B premium, resulting in medical expenses of \$█. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support and the medical expenses. Based on her confirmed one-person group size, the Department properly applied the \$█ standard deduction. RFT 255 (October 2014), p. 1.

When the Standard Deduction of \$█ is deducted from the gross income of \$█ it is determined that the Department correctly determined the Adjusted Gross Income (AGI) to be \$█ ($\$█ - \$█ = \$█$). [Exhibit B.]

In calculating Petitioner's excess shelter deduction, the Department determines the eligible monthly shelter costs. The Department properly considered Petitioner's monthly property tax and homeowner's housing expenses and \$█ heat and utility (h/u) allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$█ BEM 556, pp. 4-5; RFT 255, p. 1.

The actual calculation of the shelter expenses was explained at the hearing, and both the monthly property taxes and homeowner's insurance cost were correct. The taxes and insurance were \$█ monthly; and the heat allowance made total housing expenses \$█ which are reduced by taking one half of the AGI of \$█ resulting in an excess shelter deduction of \$█. This sum is then deducted from the AGI of \$█ resulting in net income of \$█ [Exhibit B.] BEM 556, pp. 4-5; RFT 255, p. 1.

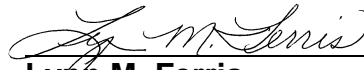
A FAP group of one person with monthly income of \$█ is entitled to \$█ in monthly FAP benefits. The FAP budget calculation are, therefore, determined to be correct. RFT 260, (October 2016), p. 1.

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 calculated the Petitioner's FAP Benefits for [REDACTED]

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

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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
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