



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: June 6, 2017  
MAHS Docket No.: 17-005437  
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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUE**

Did the Department properly decrease Petitioner's Food Assistance Program (FAP) benefits to \$ [REDACTED] effective [REDACTED]?

### **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 [REDACTED], the Department received verification of Petitioner's housing expenses (rental obligation). [Exhibit A, p. 12.]
3. Petitioner receives a monthly gross unearned income of \$ [REDACTED] which consists of the following: (i) \$ [REDACTED] per month in Retirement, Survivors and Disability Insurance (RSDI) income; (ii) \$ [REDACTED] per month in Supplemental Security Income (SSI), and \$ [REDACTED] monthly average in State SSI Payments (SSP). [Exhibit A, pp. 1 and 8-11.]

4. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits decreased to \$ [REDACTED] effective [REDACTED], because her shelter deduction and net unearned income amounts had changed. [Exhibit A, pp. 4-7.]
5. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

### **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 the present case, Petitioner disputed the decrease in her FAP benefits to \$ [REDACTED] beginning [REDACTED]. The undersigned Administrative Law Judge (ALJ) reviewed the [REDACTED] budget located in the Notice of Case Action dated [REDACTED], to determine if the decrease was properly calculated. [Exhibit A, pp. 4-5.]

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

First, the Department properly calculated Petitioner's gross unearned income to be \$ [REDACTED] which consisted of her RSDI, SSI, and SSP income. [Exhibit A, pp. 1, 4-5, and 8-11 and BEM 503 (January 2017), pp. 28-33.]

Next, the Department properly applied the \$ [REDACTED] standard deduction applicable to Petitioner's group size of one. [Exhibit A, p. 5, and RFT 255 (October 2016), p. 1.] Petitioner also did not dispute that the dependent care, medical, and child support deductions were calculated as zero. [Exhibit A, p. 5.] Once the Department subtracts the \$ [REDACTED] standard deduction from Petitioner's income, this results in an adjusted gross income of \$ [REDACTED] [Exhibit A, pp. 5 and 13.]

Also, the Department provides Petitioner with an excess shelter deduction, which is comprised of her housing costs and utility expenses. The budget indicated that Petitioner's monthly housing costs is \$ [REDACTED] [Exhibit A, p. 5.] However, it was discovered during the hearing that the Department conducted subsequent actions in

which it increased the housing costs to \$ [REDACTED]. Petitioner, though, testified that the housing costs should be \$ [REDACTED]. A review of Petitioner's "Resident Charges/Payments Ledger" received on [REDACTED] [REDACTED], shows that her rental payment as of [REDACTED], was \$ [REDACTED]. [Exhibit A, p. 12.]

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (January 2017), p. 12. Do not prorate the shelter expense even if the expense is shared. BEM 554, p. 12. Shelter expenses are allowed when billed. BEM 554, p. 12. The expenses do not have to be paid to be allowed. BEM 554, p. 12.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, pp. 12-13.

The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly calculated Petitioner's housing costs. The undersigned was presented with four different housing costs calculations, (i) the budget showed \$ [REDACTED] (ii) subsequent actions by the Department stated it was increased to \$ [REDACTED] (iii) Petitioner testified it should be \$ [REDACTED] and (iv) the shelter verification from [REDACTED] shows it is \$ [REDACTED]. [Exhibit A, pp. 5 and 12.] Based on the discrepancy in Petitioner's housing costs, the undersigned finds that the Department failed its burden of showing that it properly calculated Petitioner's housing costs. As such, the Department is ordered to initiate verification of Petitioner's housing costs effective [REDACTED], in order to determine the proper amount. See BAM 130 (January 2017), pp. 1-10, (Verification and Collateral Contacts) and BEM 554, p. 14.

Also, the Department properly determined that Petitioner's was only eligible for the \$ [REDACTED] non-heat electric standard and the \$ [REDACTED] telephone standard deductions. [Exhibit A, p. 5; BEM 554, pp. 12-25; and RFT 255, p. 1.]

In sum, because the Department failed to satisfy its burden of showing that it properly calculated Petitioner's shelter expenses (housing costs) effective [REDACTED], the Department is ordered to recalculate Petitioner's FAP allotment effective [REDACTED], 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 failed to

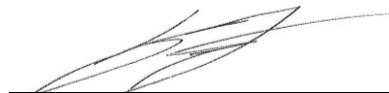
satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective [REDACTED]

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 shelter expenses) effective [REDACTED];
2. Initiate verification of Petitioner's shelter expenses for her housing expenses effective [REDACTED], in accordance with Department policy;
3. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from [REDACTED]; and
4. Notify Petitioner of its decision.

EJF/jaf



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**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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

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