



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 28, 2017
MAHS Docket No.: 17-006254
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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; 42 CFR 438.400 to 438.424; 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], from Detroit, Michigan. The Petitioner was represented by Attorney [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], and witnesses: [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility on [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 was an ongoing recipient of FAP benefits. His FAP eligibility was due for redetermination by [REDACTED].
2. A Redetermination form was submitted by the Petitioner in [REDACTED]. [Exhibit A, pp. 2-9.] Petitioner submitted paystubs for his weekly Temporary Total Disability payment for the period [REDACTED], and pay slips for his son's earnings. [Exhibit A, pp. 25-37.]

3. The Department redetermined Petitioner's eligibility for FAP benefits; and on [REDACTED], it sent Petitioner a Notice of Case action which notified Petitioner that his FAP benefits would close due to excess income. [Exhibit A, pp. 15-18.]
4. A hearing was held on [REDACTED], regarding Petitioner's FAP benefits, from which the Department was ordered to reinstate the redetermination and to issue an updated eligibility determination from [REDACTED], ongoing.
5. On [REDACTED], Petitioner filed a request for hearing disputing the Department's actions.

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.

Petitioner requested a hearing to dispute the Notice of Case Action dated [REDACTED] [REDACTED] which indicated Petitioner was no longer eligible for FAP benefits due to excess income. [Exhibit A, pp. 10-13.] At the hearing, the information used to calculate Petitioner's FAP benefits was reviewed on the record. Petitioner confirmed the information. Petitioner testified that in [REDACTED] his income changed.

The Department testified that Petitioner's income consisted of his unearned income from Temporary Total Disability and earned income from his son, a group member. Under Department policy, the Department properly considered Petitioner's earned and unearned income when it calculated FAP benefits. BEM 503 (January 2017), p. 9.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A

standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

Petitioner's FAP group consisted of three individuals. The income limit for FAP benefit eligibility for a group size of three is \$ [REDACTED] per month. According to the budget, the Department concluded that Petitioner had earned income in the amount of \$ [REDACTED] (son's earnings) and unearned income in the amount of \$ [REDACTED] monthly. Specifically, the Department stated that it relied on the paystubs provided by Petitioner. [Exhibit A, pp. 22-24, and 25-37.] Petitioner confirmed that the income information relied upon by the Department was accurate. Petitioner testified that his son is no longer employed and is not earning income. Petitioner was advised that he could reapply for benefits with the updated information. Upon review, based on the above-referenced policy and Petitioner's circumstances at the time the budget was completed, the Department properly calculated Petitioner's income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2017), p. 1; BEM 556 (July 2013), p. 3.

In this case, based on Petitioner's total income, the Department properly calculated the earned income deduction of \$ [REDACTED]. There was no evidence presented that Petitioner had any out-of-pocket dependent care, or child support expenses. Therefore, the budget properly did not include any deduction for dependent care, or child support. Based on Petitioner's three-person group size, the Department properly applied the \$ [REDACTED] standard deduction. RFT 255 (October 2016), p. 1. Petitioner's adjusted gross income was determined to be \$ [REDACTED] after the standard deductions were taken. In calculating the excess shelter deduction, the Department testified that it considered housing expenses of \$ [REDACTED]. The budget shows that the Department properly considered the \$ [REDACTED] heat and utility standard, which covers all heat and utility costs, including cooling expenses. FAP groups that are entitled to the \$ [REDACTED] standard, do not receive any other individual standards. BEM 554, pp. 14-15. After the calculations are made the excess shelter deduction is \$ [REDACTED]. Deducting the excess shelter amount of \$ [REDACTED] from the adjusted gross income amount of \$ [REDACTED] leaves a net

income of \$ [REDACTED]. The maximum FAP benefit amount for a group size of three is \$ [REDACTED]. To calculate the FAP benefit amount for which Petitioner could be eligible 30% of his net income (\$ [REDACTED] is deducted from the maximum benefit amount for the group (\$ [REDACTED] which results in \$ [REDACTED]. Therefore, based on Petitioner's verified circumstances the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for the certification period [REDACTED] ongoing.

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 determined Petitioner's benefits for [REDACTED], ongoing.

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



DM/jaf

Denise McNulty
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

Via Email
DHHS

[REDACTED]

Counsel for Respondent

[REDACTED]
[REDACTED]

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Via USPS
Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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