



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: July 21, 2017
MAHS Docket No.: [REDACTED] 17-007666
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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; 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 herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance (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 completed a redetermination for [REDACTED] regarding her food assistance and her FAP benefits.
2. During the redetermination interview, the Petitioner provided pay stubs to the Department as follows: [REDACTED].
[REDACTED].
The Petitioner confirmed the paystubs and is paid biweekly.
3. The Department determined that Petitioner's earned income was [REDACTED] a month. Exhibit A.

4. The Petitioner's FAP group size is 6 members and her rent is [REDACTED] and she pays for heat.
5. On [REDACTED], a Notice of Case Action was sent to the Petitioner advising her that her FAP benefits were approved for [REDACTED] per month. Exhibit A
6. The Department determined that the Petitioner's unearned income from Child Support received was [REDACTED] per month for her 5 children.
7. The Petitioner requested a timely hearing on [REDACTED] protesting 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.

In this case, after completing a redetermination for [REDACTED], the Department reduced the Petitioner's Food Assistance benefits to [REDACTED] a month. The Petitioner requested a hearing challenging the reduction. The FAP budget for Petitioner was presented as evidence at the hearing and reviewed. The Petitioner challenged the Department's calculation of earned income and child support income as incorrect.

At the hearing, the Petitioner provided again the actual pay stubs provided to the Department during the redetermination. Apparently, the wrong income was entered by the Department because the pay stubs were blurry. Based upon the pay stubs brought to the hearing, the same pay stubs provided to the Department, it is determined that the Department miscalculated the earned income. The Department used gross income of [REDACTED]. Exhibit A. The pay stubs presented at the hearing were as follows: [REDACTED]
[REDACTED]. The Petitioner confirmed the paystubs and is paid biweekly.

Use **only** available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. BEM 550 (January 2017), p. 1.

At the hearing, the undersigned recalculated the earned income and determined the correct amount was [REDACTED]. To compute Petitioner's gross income, the 4 pay stubs are added together and divided by 4 to get the average biweekly pay. [REDACTED] [REDACTED]). This average pay is then multiplied by 2.15 to get gross monthly pay which is [REDACTED]. The 2.15 factor is applied as a conversion to take into account fluctuations due to the number of scheduled pays in a month throughout the year. See BEM 505 ([REDACTED]), p. 8 and RFT 250.

Based upon the evidence presented it is determined that the Department erred when it calculated the Petitioner's earned income and the FAP benefits must be recalculated.

The Petitioner also challenged the Department's determination of the monthly child support income of [REDACTED] used to calculate the Petitioner's FAP benefits. The Child Support income was reviewed at the hearing for each child based upon the Department's Unearned Income Budget Summary for the three-month period beginning [REDACTED] Exhibit C.

The Child support income amount, based upon the information on the Unearned Income Benefit Budget Summary provided to the Department, was correct as calculated. The Petitioner advised that she was not receiving child support income for her children [REDACTED] and [REDACTED] and testified that she had advised the Department of this fact after the redetermination was completed. The 3-month average for [REDACTED]. This was based upon [REDACTED], for [REDACTED] for March and [REDACTED]. Thereafter no child support income was included in the FAP budget. The 3-month average for [REDACTED] based upon [REDACTED] [REDACTED] [REDACTED] [REDACTED]

based upon three months beginning February through April. The three-month average for [REDACTED]. The 3-month average for [REDACTED]. The total child support listed above totals [REDACTED]7 which is only [REDACTED] more than the Department calculated. See Exhibit C.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). Medical, dental, child care and educational expenses may also be included. Court-ordered child support may be either **certified** or **direct**. Certified support is retained by the state due to the child's FIP activity. Direct support is paid to the client.

Child support is income to the child for whom the support is paid. BEM 503, (July 2017), p. 6. Department policy requires that the Department use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue. If the irregular pattern is expected to continue, then use the average of these three months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past three months to project. **Document the discussion with the client and how you decided on the amount to budget.** BEM 505 (April 2017), p. 4-5.

Based upon the evidence presented, it is determined that the Department's determination of child support income based upon the information available at the time it calculated the child support income is correct. The Department records also indicated that for child [REDACTED] the Department records correctly reflected no child support income was received for [REDACTED]. Thus, the Department correctly used the correct three-month average as it used [REDACTED] income for April. The Petitioner further testified that she continues to receive no child support for these two children.

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 calculated the Petitioner's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is

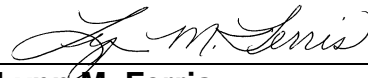
REVERSED.

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. The Department shall recalculate the Petitioner's Food Assistance benefits for [REDACTED] based upon the correct earned income amount.

2. The Department shall issue a FAP supplement to the Petitioner if she is otherwise eligible for a supplement in accordance with Department policy.

LF/



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

DHHS

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

Petitioner

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

CC:

[REDACTED]
[REDACTED]