



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Julie A. McMurtry
Interim Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 25, 2017
MAHS Docket No.: 17-007673
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 herself. [REDACTED] accompanied Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount 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 was an ongoing recipient of FAP benefits.
2. In connection with her benefits, the Department prepared a budget based on the employment information provided by Petitioner. The Department sent Petitioner a Benefit Notice on [REDACTED], notifying her that her FAP benefits case would be closed due to excess income. [Exhibit 1, pp. 10-11.]
3. On [REDACTED], the Department received Petitioner's request for hearing disputing the Department's actions concerning her FAP benefits. [*Petitioner was aware of the changes that the Department planned to make before the Benefit Notice was mailed out on [REDACTED].*]

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 closure of her FAP benefits case. The Department recalculated Petitioner's FAP benefit amount based the [REDACTED], and [REDACTED], paycheck stubs submitted to the Department. [Exhibit 1, pp. 4-5.] A standard monthly amount must be determined for each income source in a budget. BEM 505 (July 1, 2016), p. 9. Petitioner's standard monthly amount of earned income was determined to be \$ [REDACTED] (the amount received every two weeks { \$ [REDACTED] + \$ [REDACTED] ÷ 2 = \$ [REDACTED] x 2.15 = \$ [REDACTED]).

At the hearing, the information used to calculate Petitioner's FAP benefits from [REDACTED] going forward was reviewed on the record. Petitioner confirmed the information regarding her income. The Department testified that Petitioner's income consisted of earned and unearned income. Petitioner receives \$ [REDACTED] in Supplemental Security Income (SSI) for her daughter. As noted above, Petitioner has a standard monthly earned income amount of \$ [REDACTED]. Under Department policy, the Department properly considered Petitioner's earned income when it calculated FAP benefits. BEM 505 (January 2017), pp. 6-7.

The deductions applied to gross income in determining Petitioner's net income were also reviewed. Petitioner, who confirmed that her FAP group consisted of four members, was properly considered by the Department as a four-member FAP group. As a four-member FAP group, she was eligible for a \$ [REDACTED] standard deduction. RFT 255 (October 2016), p. 1. Petitioner was given the earned income deduction, in the amount of \$ [REDACTED]. BEM 550 (July 2016), p. 1. Petitioner confirmed that she had no child care or child support expenses and had no medical expenses. Therefore, she was not eligible for a deduction for medical expenses, child care or child support. Once the standard deduction and earned income deduction are made to Petitioner's earned income her adjusted gross income is \$ [REDACTED].

Petitioner was budgeted a monthly housing cost of \$ [REDACTED]. She disputed that information as being accurate. Petitioner argued that the housing cost amount was too

high as it had changed months prior to the budget being prepared. She indicated she had advised the Department of the reduction in her housing costs. Petitioner did not know her exact monthly housing cost. Additionally, she sought credit for property taxes she paid on the home she shared with her mother. No documentation was provided showing Petitioner paid the taxes. Petitioner also indicated that she paid utilities for her home. The budget does not show that she was provided the Heat and Utility Standard; however, she was given the water/sewer standard and the telephone standard.

The excess shelter deduction, is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay less (ii) 50% of the client's adjusted gross income. BEM 556, pp. 4-5. In this case, the excess shelter deduction was not sufficiently explained because of the inaccuracy in the housing cost and other standards which may possibly be applicable.

On [REDACTED], the Department sent Petitioner a Benefit Notice, which notified her that she would cease to receive any FAP benefits, due to excess income, effective [REDACTED]. 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 acted in accordance with Department policy when it determined Petitioner's Food Assistance Program (FAP) eligibility on [REDACTED].

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. Reinstate Petitioner's redetermination and process in accordance with Department policy to include issuing an updated eligibility determination from [REDACTED], ongoing.



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

DHHS

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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