



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 28, 2017
MAHS Docket No.: 17-007925
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; 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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented himself. Petitioner’s spouse, [REDACTED] was also present at the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator. [REDACTED] served as translator for the hearing.

ISSUE

Did the Department properly decrease Petitioner’s Food Assistance Program (FAP) and Family Independence Program (FIP) benefits 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 and FIP benefits.
2. Petitioner’s FAP and FIP group size is three.
3. On [REDACTED], Petitioner submitted an online change report indicating that he began employment and reporting the following: (i) he is paid \$[REDACTED]/hourly; (ii) he works [REDACTED] hours per week; (iii) he is paid every two weeks (biweekly); and (iv) his employment began on [REDACTED]. [Exhibit A, pp. 8-11.]

4. On [REDACTED], the Department also received a Verification of Employment from SEMCA – Michigan Works! Agency, which included a copy of his pay stub. The pay stub indicated that his gross pay was \$ [REDACTED]; the check date was [REDACTED] and his net earnings were \$ [REDACTED]. [Exhibit A, pp. 1 and 12-14.]
5. As a result of Petitioner starting employment, the Department budgeted his employment earnings, which resulted in a decrease in FAP and FIP benefits.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FIP benefits would decrease to \$ [REDACTED] effective [REDACTED]; and his FAP benefits would decrease to \$ [REDACTED] effective [REDACTED]. [Exhibit A, pp. 22-28.]
7. On [REDACTED], and [REDACTED], Petitioner filed hearing requests, protesting the Department's action. [Exhibit A, pp. 30-32.]

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

Preliminary matter

On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FIP benefits would close effective [REDACTED]. [Exhibit B, pp. 1-7.] Petitioner also wanted to dispute the closure of his FIP benefits. However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's dispute with the FIP closure because the Notice of Case Action dated [REDACTED], was issued subsequent to Petitioner's hearing requests. Petitioner, though, can file another hearing request to protest the closure of his FIP benefits. See BAM 600, p. 6, (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing.

The request must be received in the local office within the 90 days). Nonetheless, the undersigned has the jurisdiction to address the decrease in Petitioner's FAP and FIP benefits and it will be addressed below:

FAP benefits

The first issue Petitioner disputed was the decrease in his FAP benefits effective [REDACTED]. As such, the undersigned reviewed the FAP budget from [REDACTED] in the present matter. [Exhibit A, pp. 19-20.]

First, it was not disputed that the certified group size is three and that no group members were senior/disabled/disabled veteran (SDV) members.

Second, the Department calculated Petitioner's gross earned income to be \$ [REDACTED] which he disputed. [Exhibit A, p. 19.]. The calculation of Petitioner's gross income was based on the start of his new employment. On [REDACTED], the Department received an online change report and a Verification of Employment, which basically showed that he is paid \$ [REDACTED]/hourly; he works [REDACTED] hours per week; and he is paid every two weeks (biweekly). [Exhibit A, pp. 1 and 8-14.] The Department then took his gross biweekly pay, which is \$ [REDACTED] and converted his earnings to a standard monthly amount by multiplying it by 2.15, which resulted in a total gross income of \$ [REDACTED] [Exhibit A, p. 19.]

In response, Petitioner argued and/or made the following assertions: (i) he disputed the calculation of the monthly income to be \$ [REDACTED] because he receives only \$ [REDACTED] every two weeks; and (ii) he reported that his net income is only \$ [REDACTED] after deducting taxes.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (April 2017), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 8. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 8.

Based on the foregoing information and evidence, the undersigned finds that the Department properly calculated Petitioner's gross earned income. The Department properly took Petitioner's gross biweekly income, which is \$ [REDACTED] and then multiplied it by the 2.15 equation for biweekly income in order to convert the income to a standard monthly amount, resulting in the gross income of \$ [REDACTED]. See BEM 505, p. 8.

Second, the Department also properly budgeted Petitioner's \$ [REDACTED] in monthly FIP benefits he received as countable unearned income. See BEM 503 (April 2017), p. 14, (FIP

cash assistance). As a result of both incomes, Petitioner's total income amount is \$ [REDACTED] (\$ [REDACTED] earned income plus \$ [REDACTED] unearned income). [Exhibit A, p. 19.]

Then, Petitioner's gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1. This results in Petitioner's post earned income deduction amount to be \$ [REDACTED] (\$ [REDACTED] total income minus \$ [REDACTED] (20% of the earned income of \$ [REDACTED] [Exhibit A, p. 19.]

Next, the Department properly applied the \$ [REDACTED] standard deduction applicable to Petitioner's group size of three. RFT 255 (October 2016), p. 1. The Department also properly did not budget any dependent care, medical, or child support deductions. [Exhibit A, p. 19.]

Once the Department subtracts the \$ [REDACTED] standard deduction from the post earned income deduction amount, this results in an adjusted gross income of \$ [REDACTED] [Exhibit A, p. 19.]

Also, the Department presented the FAP – Excess Shelter Deduction budget (shelter budget), which indicated that Petitioner's monthly housing expense is \$ [REDACTED] [Exhibit A, p. 21.] Petitioner did not dispute this amount. Moreover, the Department also provided Petitioner with the \$ [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$ [REDACTED] amount. [Exhibit A, p. 21; BEM 554 (January 2017), pp. 14-16; and RFT 255, p. 1.]

It should be noted that Petitioner appeared to argue that his total expenses, such as rent, utility, car, exceeds the amount of income he receives; and the Department should take these additional expenses into consideration when determining his FAP allotment. However, the undersigned reviewed policy and determined that Petitioner received all of the deductions he is eligible for, despite his claim. For example, Petitioner receives the maximum h/u standard that he is eligible for; and this \$ [REDACTED] deduction encompasses all of his all utilities (water, gas, electric, telephone). Furthermore, a review of BEM 554 finds that there is no additional deduction for car expenses (i.e., car payments or insurance). As such, the undersigned finds that the Department properly took into consideration all of Petitioner's allowable expenses (i.e., rent, electric, etc.) that he is eligible to receive for when determining his FAP allotment

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$ [REDACTED] [Exhibit A, p. 21.] Then, the Department subtracts the total shelter amount from 50 percent of the \$ [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is \$ [REDACTED] [Exhibit A, p. 21.] When the Department subtracts the total shelter amount from 50 percent of the gross income, the excess shelter amount is found to be \$ [REDACTED] [Exhibit A, p. 21.] However, policy states that for groups with no SDV members, the Department uses the excess shelter up to the maximum amount, which is \$ [REDACTED] BEM 554, p. 1, and RFT

255, p. 1. Because Petitioner is a non-SDV member, he is only entitled to the maximum excess shelter of \$ [REDACTED] even though the excess shelter calculation was \$ [REDACTED]

Finally, the Department takes the \$ [REDACTED] adjusted gross income and minuses the \$517 excess shelter deduction, which results in a net income of \$ [REDACTED] [Exhibit A, p. 20.] A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be \$ [REDACTED] for [REDACTED]. RFT 260 (October 2016), p. 4.

FIP benefits

The second issue Petitioner disputed was the decrease in his FIP benefits effective [REDACTED]. As such, the undersigned reviewed the FIP budget from [REDACTED] in the present matter. [Exhibit A, pp. 17-18.]

First, it was not disputed that the certified group size is three. The Department then counted Petitioner's gross earned income to be \$ [REDACTED] [Exhibit A, p. 17.] As shown above in the FAP analysis, the undersigned concluded that the Department properly calculated Petitioner's gross earned income of \$ [REDACTED]. In regards to the FIP benefits, the Department applies the same policy outlined in BEM 505 when calculating his earned income. As such, the undersigned finds that the Department properly calculated Petitioner's gross earned income to be \$ [REDACTED] for his FIP benefits. [Exhibit A, p. 17 and BEM 505, pp. 1-8.]

Then, Petitioner is eligible for income deductions when calculating his earned income. Policy states that the Department deducts \$ [REDACTED] from each person's countable earnings. BEM 518 (October 2015), p. 5. This means the Department would subtract \$ [REDACTED] from Petitioner's gross income of \$ [REDACTED] which results in a total of \$ [REDACTED]. Then the Department deducts an additional 50 percent of each person's remaining earnings. BEM 518, p. 5. The total disregard cannot exceed countable earnings. BEM 518, p. 5. Apply this disregard separately to each program group member's earned income. BME 518, p. 5. This means that the Department would subtract \$ [REDACTED] (50 percent of \$ [REDACTED] of Petitioner's remaining earnings) from \$ [REDACTED] which results in a net income \$ [REDACTED] [Exhibit A, p. 17).

Policy also allows additional income deductions for child support and spousal deductions, but Petitioner does not qualify for any of these deductions. BEM 518, pp. 5-6.

Finally, the Department will determine if Petitioner is eligible for a FIP grant amount. The payment standard is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1. Income is subtracted from the payment standard to determine the grant amount. BEM 515, p. 1. In this case, the payment standard for Petitioner's group size of three is \$ [REDACTED] RFT 210 (April 2017), p. 1. However, policy states that income is subtracted from the payment standard to determine the grant amount. BEM 515, p. 1. Petitioner's net income in this case was \$ [REDACTED] and when the Department subtracts this amount from the \$ [REDACTED] payment standard,


this results in a FIP grant amount of \$ [redacted] [Exhibit A, p. 17.] Accordingly, the Department properly determined that Petitioner was eligible for only \$ [redacted] in FIP benefits effective [redacted].

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 properly decreased Petitioner's FAP and FIP benefits effective [redacted].

Accordingly, the Department's decision FAP and FIP is **AFFIRMED**.

EJF/jaf



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

DHHS

[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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