



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: July 25, 2017  
MAHS Docket No.: 17-008224  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

### **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 July 19, 2017, from Lansing, Michigan. Petitioner appeared and represented himself. [REDACTED] Family Independence Manager (FIM), appeared on behalf of the Department of Health and Human Services (Department). [REDACTED] Eligibility Specialist (ES), testified as a witness for the Department.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (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. Petitioner was active for FAP with a monthly allotment of \$ [REDACTED] and a group size of 1. Petitioner is an S/D/V. [Hearing Testimony & Department's Exhibit 1, p. 21].
2. Petitioner received \$ [REDACTED] in RSDI unearned income from the Social Security Administration (SSA) at all relevant times. [Dept. Exh. pp. 28-30].
3. Petitioner paid \$ [REDACTED] per month in rent and the Department had provided him with the \$ [REDACTED] Heat and Utility (H/U) standard credit. [Dept. Exh. 1, p. 23].

4. At redetermination, Petitioner reported, among other things, that he pays \$ [REDACTED] per month in rent and that this had not changed. [Dept. Exh. 1, pp. 9-16].
5. On May 4, 2017, Petitioner, during an interview, stated that his monthly rental expense did not include gas, electric, water, trash, and telephone. [Dept. Exh. 1, p. 31].
6. On May 11, 2017, the Department mailed Petitioner a Shelter Verification (DHS-3688) form, which was due by May 22, 2017. [Dept. Exh. 1, pp. 19-20].
7. Petitioner completed and timely returned the Shelter Verification form to the Department, which indicated that Petitioner paid \$ [REDACTED] for rent and that the following are included in his rent: electric, water/sewer, cooking fuel, heating/cooling (including room air conditioner) and trash removal. [Dept. Exh. 1, pp. 19-20].
8. The Department processed Petitioner's FAP case and redetermined his eligibility for FAP benefits.
9. On May 4, 2017, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which reduced Petitioner's monthly FAP to \$ [REDACTED] effective June 1, 2017. [Dept. Exh. 1, pp. 17-18].
10. On June 14, 2017, the Department received Petitioner's request for hearing to dispute the FAP reduction.

### **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 instant matter, Petitioner requested a hearing because he believes that the Department should not have reduced his monthly FAP benefits from \$ [REDACTED] to \$ [REDACTED]. Petitioner contends that he has medical problems and has received FAP benefits for several years. The Department contends that the reduction was proper because his rent included his utilities and other expenses.

The Department's policy concerning allowable FAP expenses is contained in BEM 554. Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (1-1-2017), p. 1. For groups with **no** senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554, p. 1. For groups **with** one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554, p 1.

### Heat & Utility Standard

The heat/utility (h/u) standard covers all heat and utility costs including cooling, **except** actual utility expenses, for example, installation fees etc. Do **not** prorate the h/u standard even if the heating/cooling expense is shared. FAP groups that qualify for the h/u standard **do not** receive any other individual utility standards. Do **not** require verification of the other utility standards if the household is already eligible for the h/u standard. BEM 554, pp. 14-15. [Emphasis in original].

Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported, clients are **not** automatically allowed the h/u standard. BEM 554, p. 15. [Emphasis in original].

All new FAP applications that were not certified before March 10, 2014, when the Agricultural Act of 2014 went into effect, will be reprocessed to follow the MANDATORY HEAT AND UTILITY STANDARD section and will be required to provide verification once the systems changes are completed on May 1, 2014. BEM 554, p. 15.

For all FAP groups that received the h/u standard on or before February 7, 2014, the h/u standard will remain in place for a period of five months after the month of their first redetermination occurring on or after May 1, 2014. In order to continue receiving the h/u standard beyond the expiration of the five month period, the FAP group must meet the requirements of the MANDATORY HEAT AND UTILITY STANDARD section. BEM 554, p. 15.

**Example:** Sally's FAP group received the h/u standard on or before February 7, 2014. Her case either has its first redetermination after May 1, 2014 in the month of May, with the benefit period beginning in June. The delayed implementation change requires her benefit issuance amount starting in November to include only the utilities for which she is responsible to pay. Therefore, from June through October, she will continue to automatically receive the h/u standard. However, if she does not verify any responsibility for utilities, then starting with her November FAP issuance her budget will no longer contain any heat or utility expenses. BEM 554, pp. 15-16.

This policy provides that FAP groups whose heat is **included** in their rent or fees are not eligible for the h/u standard, **unless** they are billed for **excess heat** payments from their landlord. Verify the excess heat expense at application, redetermination, or when a change is reported. Client statement is no longer acceptable; verification is required. BEM 554, p. 17. [Emphasis in original].

FAP groups whose electricity is **included** in their rent or fees are not eligible for the h/u standard **unless** their landlord bills them separately for excess cooling. BEM 554, p. 20. [Emphasis in original].

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The verifications in the record show that Petitioner pays \$ [REDACTED] for rent and that electric, water/sewer, cooking fuel, heating/cooling (including room air conditioner) and trash removal are all included in his rent. [Dept. Exh. 1, pp. 19-20]. According to BEM 554, Petitioner is not entitled to the h/u standard. Based on the material, competent and substantial evidence on the whole record, this Administrative Law Judge finds that the Department properly excluded the h/u standard when it budgeted Petitioner's FAP case.

Based upon the above Findings of Fact, Petitioner was receiving monthly unearned income in the amount of \$ [REDACTED] at the time relevant to this matter. The record shows that Petitioner was being paid monthly from RSDI. This amount is reduced by a standard deduction of \$ [REDACTED] and a \$ [REDACTED] medical deduction, leaves an adjusted gross income of \$ [REDACTED]. See BEM 550. An excess shelter deduction of \$ [REDACTED] was subtracted from Petitioner's adjusted gross income of \$ [REDACTED] resulting in Petitioner receiving \$ [REDACTED] in net income. [Dept. Exh. 1, p. 24].

An individual in all FAP groups with a group size of 1 has a maximum monthly net income limit of \$ [REDACTED] RFT 250 (10-1-2016). Because Petitioner had a certified group size of 1 and a total countable monthly income of \$ [REDACTED] the food issuance tables indicate that the proper monthly FAP allotment is \$ [REDACTED] RFT 260 (10-1-2016), p. 8. Therefore, the Department properly determined that Petitioner's monthly FAP allotment was \$ [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 acted in accordance with Department policy when it determined Petitioner's monthly FAP allotment.

**DECISION AND ORDER**

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

**IT IS SO ORDERED.**

CAP/md



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**C. Adam Purnell**  
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]