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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: September 8, 2017
MAHS Docket No.: ██████████ 17-009201
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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, an in-person hearing was held on ██████████, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Petitioner's 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 an ongoing recipient of FAP benefits in the amount of ██████████
2. The Department had been including an ongoing medical expense in the amount of ██████████ towards the medical deduction on Petitioner's FAP budget.
3. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed. (Exhibit A)
4. On ██████████, Petitioner timely submitted a completed FAP redetermination and reported that: her FAP household size is one; she receives monthly Social Security disability benefits as income; that she has no medical expenses; and that there has been no change in her housing expenses. (Exhibit A)

5. Petitioner submitted verification of her property taxes and home insurance. (Exhibit D)
6. After processing the redetermination, the Department removed the [REDACTED] medical deduction from the calculation of Petitioner's FAP budget.
7. On [REDACTED], the Department sent Petitioner a Notice of Case Action advising her that effective [REDACTED], she was eligible for [REDACTED] in monthly FAP benefits. (Exhibit B)
8. Petitioner did not submit verification of applicable medical expenses greater than [REDACTED] prior to the hearing date.
9. On [REDACTED] Petitioner requested a hearing disputing the decrease in her FAP benefits to [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.

In this case, Petitioner requested a hearing disputing the decrease in her FAP benefits to [REDACTED] effective [REDACTED]. The Department testified that after processing the redetermination, it discovered that it had been improperly including an ongoing monthly medical deduction of [REDACTED] on Petitioner's FAP budget. The Department stated that because Petitioner did not report or submit verification of any medical expenses with the redetermination, it removed the [REDACTED] medical deduction and determined that she was eligible for [REDACTED] in monthly FAP benefits. The Department presented a FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit D).

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 considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for

purposes of FAP budgeting. BEM 503 (July 2017), pp. 31-32. The Department concluded that Petitioner had gross unearned income from RSDI in the amount of [REDACTED] which Petitioner confirmed was correct. Thus, the unearned income was properly calculated.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- 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, Petitioner did not have earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, medical expenses or child support expenses. Therefore, the budget properly did not include any deduction for dependent care, medical expenses or child support. The Department properly applied a [REDACTED] standard deduction based on Petitioner's confirmed group size of one. Although Petitioner indicated that she did have ongoing and one time medical expenses, Petitioner did not establish that she reported the expenses to the Department at the time of the redetermination or that she provided the Department with verification of such expenses prior to the hearing date. Petitioner presented medical expenses and statements for review at the hearing. Petitioner was advised that she was required to provide the Department with the expenses for processing. Because the expenses were not provided to the Department prior to Petitioner's hearing request, the issue of whether or not the expenses were properly processed was not addressed.

With respect to the excess shelter deduction of [REDACTED] the Department testified that it considered housing expenses of [REDACTED] which was determined using Petitioner's annual home insurance of [REDACTED] and annual property taxes of [REDACTED]. Specifically, the Department determined that based on the annual amounts, Petitioner's monthly housing expenses consisted of [REDACTED] in property taxes and [REDACTED] in home insurance. (Exhibit E). These figures do not total [REDACTED], however. Additionally, although Petitioner confirmed the amount of her annual property taxes, Petitioner disputed the calculation of her home insurance. Petitioner testified that her annual home insurance is [REDACTED] as she makes quarterly payments of [REDACTED]. The Statement of Account provided by Petitioner with her redetermination supports her testimony. (Exhibit E). Thus, the Department did not properly calculate Petitioner's housing expenses.

The Department did properly apply the [REDACTED] heat/utility (h/u) standard which covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Although the Department properly applied the h/u standard, because it did not properly calculate her housing expenses, the Department failed to establish that it properly calculated Petitioner's excess shelter deduction.

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 because of the errors in the calculation of the excess shelter deduction, the Department did not act in accordance with Department policy when it calculated the amount of Petitioner's FAP benefits effective [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. Recalculate Petitioner's FAP budget for [REDACTED] ongoing;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from [REDACTED] ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/tlf



Zainab A. Baydoun
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:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]