



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: March 24, 2017
MAHS Docket No.: 17-002428
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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; 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 March 23, 2017, from Detroit, Michigan, in the Wayne-District 31 (Grandmont) office. The Petitioner appeared for the hearing with his wife, [REDACTED], and represented himself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Staci Sanders, Eligibility Specialist.

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 is an ongoing recipient of FAP benefits.
2. In connection with a redetermination, Petitioner's eligibility for FAP benefits was reviewed.
3. On or around [REDACTED], 2017, Petitioner timely submitted the FAP redetermination to the Department. (Exhibit B, pp. 5-12)
4. Petitioner's FAP group consists of two members: himself and his wife.

5. Petitioner and his wife each receive monthly unearned income from Supplemental Security Income (SSI) in the amount of \$551.50 and quarterly State SSI Payments (SSP). (Exhibit B, pp. 13-18)
6. Petitioner has confirmed housing expenses in the amount of \$600, which consist of monthly rent and is responsible for heat/utility expenses.
7. On February 1, 2017, the Department sent Petitioner a Notice of Case Action advising him that effective March 1, 2017, he was approved for FAP benefits in the amount of \$257 monthly. (Exhibit B, pp. 22-25)
8. On [REDACTED] 2017, Petitioner submitted a hearing request disputing the Department's actions with respect to his FAP benefits. (Exhibit B, pp. 2-3)

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Department policy provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. For FAP cases only, the client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600 (October 2016), p. 6. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness; or for FAP cases only, the current level of benefits. BAM 600, pp.4-5.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to his FAP benefits. At the hearing, Petitioner asserted that he was disputing the

\$100 decrease in his FAP benefits from \$357 to \$257 monthly. The Department presented a Benefit Summary Inquiry which established that Petitioner had not received FAP benefits in the amount of \$357 since April 2016 and that effective May 2016, Petitioner was approved for FAP in the amount of \$261. Petitioner's FAP benefits were reduced to \$257 effective January 1, 2017, and remained at this amount after the redetermination was processed. (Exhibit A). Thus, based on the evidence presented, because the \$100 decrease in Petitioner's FAP benefits occurred more than 90 days prior to his February 15, 2017, request for hearing, the undersigned Administrative Law Judge does not have the authority or jurisdiction to address this issue. Petitioner did not establish that the Department had taken any negative action on his FAP case in the 90 days prior to his hearing request.

However, in light of BAM 600, the current level of Petitioner's FAP benefits at \$257 will be reviewed, as this was the only action taken by the Department prior to the hearing request that warrants an administrative hearing according to Department policy.

At the hearing, the Department testified that Petitioner's FAP case was due for a redetermination/review in [REDACTED] 2017 and that Petitioner timely completed and submitted the redetermination to the Department on [REDACTED], 2017. The Department stated that because no changes were reported, the redetermination was processed and Petitioner continued to be eligible for \$257 in FAP benefits for March 1, 2017, ongoing. The Department notified Petitioner of the approval by sending him a Notice of Case Action dated February 1, 2017. (Exhibit B, pp. 22-25). The FAP EDG Net Income Results Budget for March 2017 was reviewed to determine if the Department properly determined that Petitioner's FAP group was eligible to receive \$257 in monthly FAP benefits. (Exhibit B, pp. 19-21).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (January 2016), pp. 1 – 5. The Department considers the gross amount of money earned from SSI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2017), pp. 31-32. For a couple who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$21 (\$10.50 per individual) and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$10.50 each) as unearned income. BEM 503, p.33; BEM 660 (January 2017), pp. 1-2; RFT 248 (January 2017), p. 1.

A review of the FAP EDG Net Income Results Budget shows that the Department concluded that Petitioner's FAP group had unearned income of \$1124. The Department stated that it specifically considered \$551.50 in SSI for both Petitioner and his wife, as well as \$10.50 in SSP benefits for Petitioner and his wife. The Department presented SOLQs in support of its testimony and Petitioner confirmed that the monthly unearned income amounts were correct. (Exhibit B, pp. 13-18). Therefore, the Department properly calculated Petitioner's unearned income of \$1124.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes senior/disabled/veteran (SDV) members. 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 any earned income; and there was no evidence presented that he had any out-of-pocket dependent care, or child support expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care, or child support. Based on his confirmed two-person group size, the Department properly applied the \$151 standard deduction. RFT 255 (October 2016), p. 1. In calculating the excess shelter deduction of \$640, the Department considered Petitioner's confirmed housing expenses consisting of monthly rent in the amount of \$600 and the \$526 heat and utility standard, which covers all heat and utility costs, including cooling expenses. FAP groups that are entitled to the \$526 standard, do not receive any other individual standards. BEM 554, pp. 14-15. After further review, the Department properly determined that Petitioner was eligible for a \$640 excess shelter deduction.

With respect to the medical deduction, the Department testified that because it did not receive verification of medical expenses from Petitioner until the pre-hearing conference, after the redetermination had been processed and the hearing requested, the expenses were not considered in the calculation of Petitioner's FAP benefits for the month of March 2017, thus, the budget presented for review reflects a medical deduction of \$0. The Department stated that the expenses were processed and Petitioner's FAP budget recalculated after the hearing request was submitted. Petitioner testified that last month, he submitted medical expenses to the Department which consisted of copays for prescriptions from his pharmacy. However, Petitioner could not identify the exact date that he submitted medical expenses or the exact amount of the expenses incurred.

As indicated above, for FAP groups with SDV members, the Department must apply a medical expense deduction in calculating FAP eligibility for verified out-of-pocket medical expenses in excess of \$35 incurred by the SDV member of the group. BEM 554, p. 1; BEM 556, pp. 4-5. The allowable medical expenses that are to be considered by the Department are found in BEM 554, at pp. 9-11. For FAP groups that do not have a 24-month benefit period, a one-time-only medical expense may be budgeted for one

month or averaged over the balance of the benefit period. BEM 554, pp. 8-9. For groups that have 24-month benefit period and the medical expense was billed or due within the first 12 months of the benefit period, the expense can be budgeted for one month, averaged over the remainder of the first 12 months of the benefit period, or averaged over the remainder of the 24-month benefit period. BEM 554, p. 9.

Therefore, based on the information available to the Department at the time the redetermination was processed and at the time of the hearing request, the Department properly determined that the medical deduction for the March 2017 FAP benefit period was \$0. Because the evidence established that Petitioner did not submit the medical expenses to the Department until after the hearing was requested, the issue concerning whether or not the Department properly processed the expenses once received and applied them to Petitioner's FAP budget for the appropriate months will not be addressed with this Decision and Order. Petitioner is informed that should the Department fail to process the medical expenses submitted and apply them to his FAP budget for the applicable months in accordance with Department policy, he is entitled to submit a new hearing request to have the matter resolved.

Upon further review, the Department properly reduced Petitioner's gross income of \$1124 by the \$151 standard deduction and the \$640 excess shelter deduction, resulting in monthly net income of \$333. Based on net income of \$333 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Petitioner's FAP group was eligible for monthly FAP benefits of \$257. BEM 556; RFT 260 (October 2016), p. 5.

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 calculated Petitioner's FAP benefits.

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



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:

DHHS Hearings Coordinator – 31
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

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