



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 29, 2017
MAHS Docket No.: 17-002576
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 22, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Erika Brown, Assistance Payment Worker, and Gloria Thompson, Family Independence Manager.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits for March 1, 2017 ongoing?

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. Petitioner has a two-person FAP group.
3. Petitioner is a recipient of Supplemental Security Income (SSI).
4. On February 3, 2017, the Department sent Petitioner a Notice of Case Action notifying her that effective March 1, 2017 her monthly FAP benefits were decreasing to \$240 (Exhibit A, pp. 1-2).

5. On [REDACTED], 2017, the Department received Petitioner's oral request for hearing disputing the reduction of her FAP benefits.

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 disputing the reduction of her monthly FAP benefits from \$357 to \$240. The Department testified that the reduction was due to changes in Petitioner's monthly unearned income. The Department presented a FAP net income budget for March 2017 ongoing that was reviewed with Petitioner at the hearing (Exhibit A, pp. 17-19).

The budget shows unearned income totaling \$932. The Department testified that this figure was the sum of (i) Petitioner's monthly \$735 in SSI, (ii) her monthly \$14 in State SSI Payment (SSP) (based on quarterly payments of \$42); and (iii) monthly child support of \$183. Petitioner acknowledged receiving quarterly SSP benefits of \$42. The Department properly budgeted a monthly \$14 SSP benefit amount as unearned income. BEM 503, p. 33.

At the hearing, Petitioner disputed the amount of SSI the Department was budgeting and her receipt of any child support income. She argued that she received only \$661 in monthly SSI. The Department produced an SOLQ (Single Online Inquiry), the Department-accessible database showing a client's social security benefits, which confirmed that, as of March 1, 2017, Petitioner received monthly SSI of \$661.50, with \$73.50 being withheld to recover an overpayment (Exhibit B). Department policy provides that amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income unless (i) the original payment now being recovered was excluded income when received or (ii) the SSI recoupment was due to an intentional program violation (IPV). BEM 500 (January 2016), p. 6. Because there was no evidence that the amounts being withheld by SSA from Petitioner's SSI were due to an IPV or were previously excluded when paid to

Petitioner, the Department did not act in accordance with Department policy when it used a figure other than \$661.50 for Petitioner's monthly SSI payment.

Petitioner also argued that she was not the recipient of \$183 in monthly child support. She testified that her grandmother was the guardian for her adult disabled child until the child turned 18, at which point she became the child's guardian, and that any child support payments for her daughter were received by her grandmother. The Department produced a consolidated inquiry showing, consistent with Petitioner's testimony, that one of the payees of court-ordered direct child support for Petitioner's daughter was Petitioner's grandmother. However, the consolidated inquiry also showed that Petitioner was a payee of direct court-ordered child support for the daughter. The consolidated inquiry shows equal payments on the same dates to both Petitioner and her grandmother. (Exhibit C). Petitioner's evidence, a bank statement addressed to her grandmother showing the child support deposits establishes that payments were made to the grandmother (Exhibit 1). Although the consolidated inquiry also shows that payments are made to Petitioner, in light of the inconsistencies of two payees showing on the document and Petitioner's testimony that she does not receive child support, the Department should have requested verification from Petitioner to confirm whether the grandmother was the only payee, either through a letter or document from the payer of the child support or information from the friend of the court through a DHS-243, Verification of Public Records. See BAM 130 (January 2017), p. 1; BEM 503, pp. 40-41.

Because the evidence shows that Petitioner's monthly income is less than \$932, the Department did not act in accordance with Department policy in calculating Petitioner's FAP group's income.

The deductions to income shown on the FAP net income budget were also reviewed with Petitioner. Because Petitioner receives SSI benefits, she is a senior/disabled/veteran (SDV) member of the FAP group. See BEM 550 (January 2017), pp 1-2. For groups with one or more SDV members, the following deductions are available from the group's total income:

- Standard deduction.
- 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.

BEM 554 (January 2017), p. 1.

Based on Petitioner's two-person FAP group, Petitioner was eligible for a \$151 standard deduction, as shown on the budget. RFT 255 (October 2016), p. 1. Petitioner

confirmed that she had no day care, child support, or out-of-pocket medical expenses. Therefore, the Department properly provided no deduction for those expenses in the budget.

In calculating a client's excess shelter expense, the Department considers the monthly shelter expenses and the utility standard applicable to the client's case, if any. BEM 556 (July 2013), pp. 4-5. The Department's evidence (Exhibit A, p. 19) showed that it considered monthly shelter expenses of \$256 and the \$526 heat and utility (h/u) standard, which is the most beneficial utility standard available to a client. BEM 554, pp. 14-20; RFT 255, p. 1. Although Petitioner initially argued that her monthly rent beginning March 1, 2017 was \$265, upon reviewing a shelter verification her landlord provided to the Department, she conceded that the shelter verification showed \$256. Because the information provided to the Department showed shelter expenses of \$256, the Department properly considered this rental amount in its calculation of the excess shelter deduction. Petitioner is advised to obtain an updated shelter verification if the information used by the Department is inaccurate.

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 did not act in accordance with Department policy when it calculated Petitioner's FAP budget for March 1, 2017 ongoing.

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 did not act in accordance with Department policy when it calculated Petitioner's FAP benefits for March 1, 2017 ongoing.

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 benefits for March 1, 2017 ongoing;
2. Issue supplements to Petitioner for FAP benefits she was eligible to receive but did not from March 1, 2017 ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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:

Hearings Coordinator – 15 – 1843
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
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