



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: April 7, 2017
MAHS Docket No.: 17-003125
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 April 5, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Geneva Goods, Eligibility Specialist.

ISSUE

Did the Department properly calculate 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 monthly FAP benefits of \$16 (Exhibit C).
2. Petitioner is over age 60.
3. Petitioner is the only member of her FAP group.
4. Petitioner has gross monthly Retirement, Security, and Disability Insurance (RSDI) income of \$1655.50.

5. The Social Security Administration (SSA) withholds \$121.80 from Petitioner's RSDI income to pay for her Part B Medicare premium (Exhibit B).
6. Petitioner pays \$800 in monthly rent (Exhibit A) and is responsible for heat and/or cooling expenses.
7. On [REDACTED] 2017, the Department received Petitioner's request for hearing disputing the calculation 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 calculation of her FAP benefits. Petitioner is an ongoing recipient of \$16 in monthly FAP benefits since November 2015 (Exhibit C). However, a client is eligible for a hearing to dispute the current level of FAP benefits at any time within the benefit period. BAM 600 (October 2016), p. 6. Therefore, Petitioner was eligible for a hearing to dispute the calculation of her FAP benefits for the certification period that applied at the time of her [REDACTED] 2017 hearing request.

The Department did not provide a copy of the FAP net income budget showing the calculation of Petitioner's FAP benefits as requested. At the hearing, the Department testified as to the information that was considered in calculating Petitioner's benefits, and Petitioner confirmed the information provided. Therefore, the information provided on the record is reviewed in assessing whether the FAP benefits were properly calculated.

The Department testified that Petitioner's sole income consisted of her gross monthly RSDI income of \$1655.50. Petitioner agreed that she was eligible for \$1655.50 in gross social security benefits but argued that, after SSA withheld \$121.80 to pay her Part B Medicare insurance, she only had \$1533 in net income. Under Department policy, the Department properly considered Petitioner's *gross* RSDI benefit income when it calculated FAP benefits. BEM 503 (January 2017), p. 28.

The FAP budget deductions to gross income were also reviewed. Because Petitioner is over age 60, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (January 2017), p. 1. For FAP groups with one or more SDV members and no earned income, the Department must reduce the household's gross monthly unearned income by the following deductions: the standard deduction (based on group size), child care expenses, child support expenses, verified out-of-pocket medical expenses in excess of \$35, and the excess shelter deduction. BEM 554 (June 2016), p. 1; BEM 556 (July 2013), pp. 4-5.

Petitioner, who confirmed that she had identified herself as the sole member of her household, was properly considered by the Department as a single-member FAP group. As a single-member FAP group, she was eligible for a \$151 standard deduction. RFT 255 (October 2016), p. 1. Petitioner confirmed that she had no child care or child support expenses. Therefore, she was not eligible for a deduction for such expenses. Petitioner acknowledged that the only medical expense she incurred was the \$121.80 expense for her Part B Medicare premium. Therefore, she was eligible for a medical deduction in the amount of \$86.80, the difference between her \$121.80 Part B premium and the \$35 threshold. When Petitioner's \$1655.50 gross RSDI unearned income is reduced by the \$151 standard deduction and her \$86.80 medical expense deduction, her adjusted gross income for FAP purposes is \$1417 (reduced to the lowest dollar amount).

The final deduction available in the calculation of Petitioner's net income for FAP purposes, the excess shelter deduction, is equal to (i) the sum of a client's monthly shelter expenses and the applicable utility standard for any utilities the client is responsible to pay **less** (ii) 50% of the client's adjusted gross income, which in this case, is \$708. BEM 556, pp. 4-5.

The Department testified that in calculating Petitioner's excess shelter deduction it considered her monthly rent of \$800, which Petitioner confirmed. The Department also found that Petitioner was responsible for heating and cooling expenses. An individual responsible for heating and/or cooling expenses is eligible for the \$526 heat and utility (h/u) standard, the most beneficial utility standard available to a client. BEM 554, pp. 14-20; RFT 255, p. 1. Petitioner's total shelter expenses of \$1326 (the sum of her \$800 rent and the \$526 h/u standard) exceed \$708, 50% of her adjusted gross income, by \$618. Therefore, Petitioner is eligible for a \$618 excess shelter deduction to her adjusted gross income.

When Petitioner's adjusted gross income of \$1417 is reduced by her \$618 excess shelter deduction, Petitioner has net income of \$799. Based on net income of \$799 and a group size of one, Petitioner was eligible for monthly benefits of \$16 for March 2017 ongoing. RFT 260 (October 2016), p. 11. Therefore, the Department acted in accordance with Department policy when it calculated Petitioner's FAP benefits for the FAP certification period including March 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 acted in accordance with Department policy when it calculated Petitioner's FAP benefits.

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

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:

DHHS Hearings Coordinator – 19
BSC4 Hearing Decisions
M. Holden
D. Sweeney
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
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[REDACTED]
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