



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: April 18, 2017
MAHS Docket No.: 17-003157
Agency No.: [REDACTED]
Date of Hearing Request: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 [REDACTED] from [REDACTED] Michigan. Petitioner appeared and represented himself. [REDACTED] Hearing Facilitator, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: [Dept. Exh. A: Notice of Case Action ([REDACTED]), Dept. Exh. B: Semi-Annual Contact Report ([REDACTED]), Dept. Exh. C: FAP EDG Net Income Results, Dept. Exh. D: Bridges FAP Excess Shelter Deduction, Dept. Exh. E: Verification Checklist ([REDACTED]), Dept. Exh. F: Consolidated Inquiry-Search, Notice of Non-Tax Federal Debt, and Dept. Exh. G: Bridges SOLQ Report ([REDACTED])].

Petitioner did not offer any exhibits into evidence.

The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) monthly benefit allotment?

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 receiving \$ [REDACTED] per month in FAP benefits. [Dept. Exh. C].

2. Petitioner had a group size of one. [Dept. Exh. C].
3. Petitioner received \$ [REDACTED] per month in unearned income from the Social Security Administration. [Dept. Exh. C & G].
4. Petitioner paid \$ [REDACTED] per month for his rental expenses. [Dept. Exh. D].
5. On [REDACTED], the Department received Petitioner's completed Semi-Annual Contact Report, which did not indicate that he had any changes. [Dept. Exh. B].
6. On [REDACTED], the Department mailed Petitioner a Notice of Case Action, which indicated that, effective [REDACTED], he was approved for FAP at a rate of \$ [REDACTED] per month. [Dept. Exh. A].
7. Petitioner informed his caseworker that he had been paying \$ [REDACTED] per month, which was an overpayment. [Petitioner Hearing Testimony].
8. On [REDACTED] the Department mailed Petitioner a Verification Checklist, which requested verifications of his monthly rental expense. [Dept. Exh. E].
9. Petitioner provided the Department with verification that his monthly rental expense was \$ [REDACTED] [Dept. Exh. E].
10. On [REDACTED], Petitioner requested a hearing to dispute the FAP monthly allotment and Medical Assistance (MA) benefits. [Request for Hearing].
11. Petitioner subsequently withdrew his request for hearing concerning the MA issue and the Department prepared a hearing packet which was limited to the FAP issue. The record does not contain evidence that Petitioner later refiled a new request for a hearing concerning MA. [See Request for Hearing, p. 2].

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 because he believed that the Department did not correctly calculate his \$ [REDACTED] monthly FAP benefits. The Department contends that Petitioner's FAP benefits were budgeted correctly.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The issue is whether the Department properly calculated Petitioner's monthly FAP benefits at \$ [REDACTED] per month at the time.

The Department uses countable income to determine eligibility and benefit levels. BEM 500, (1/1/2016), p. 2. Income remaining after applying the policy in the income related items is called **countable**. BEM 500, p. 3. [Emphasis in original]. For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500, p. 1.

All income is converted to a standard monthly amount. BEM 505, p. 1. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 1. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. BEM 505, p. 9. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505, p. 9.

BEM 550 (1-1-2017) describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550, p. 1. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have income below the net income limits. BEM 550, p. 1. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550, p. 1.

The Department will use only available, countable income to determine eligibility. BEM 550. It will always calculate income on a calendar month basis to determine eligibility and benefit amounts and use income from a month specified in this item for the benefit month being considered. BEM 550, p. 1.

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) Medicaid program which requires a disability determination by MRT or Social Security Administration; (3) [REDACTED] and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

The Department will budget the entire amount of earned and unearned countable income. BEM 550, p. 1. Gross countable earned income is reduced by a 20% earned income deduction. BEM 550, p. 1. Every case is allowed the standard deduction shown in RFT 255. BEM 550, p. 1. The Department documents income budgeting on either a manually-calculated or an automated FAP worksheet. BEM 550, p. 1.

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 \$35.00. BEM 554, p 1.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554, p. 1. The Department **must** verify the responsibility to pay and the amount of certain expenses. BEM 554, p. 1. The Department must document verification in the case record. BEM 554, p. 1. The Department shall **not** budget expenses that require verification until the verification is provided. BEM 554, p. 11. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554, p. 11. The Department may **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified. BEM 554, p. 12. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued **only** if the expense could **not** be verified within 30 days of the application and the local office was at fault. BEM 554, p. 12.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554, p. 12. Expenses remain unchanged until the FAP group reports a change. BEM 554, p. 12.

Based upon the above Findings of Fact, Petitioner was receiving monthly \$ [REDACTED] in total countable unearned income at the time relevant to this matter. [Dept. Exh. C]. Petitioner did not dispute this amount. Therefore, Petitioner's total monthly income of \$ [REDACTED] which is reduced by a standard deduction of \$ [REDACTED] and a \$ [REDACTED] medical deduction (Petitioner did not dispute this deduction amount), leaves an adjusted gross income of \$ [REDACTED]. See BEM 550, p. 1 and Dept. Exh. C]. 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. C].

An individual 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. 9. 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 that Petitioner was entitled to \$ [REDACTED] per month in FAP benefits.

DECISION AND ORDER

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

IT IS SO ORDERED.

CAP for MJB/jaf



Michael J. Bennane
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]

[REDACTED]