



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR



Date Mailed: April 20, 2017  
MAHS Docket No.: 17-003455  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 12, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

### **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 FAP-benefit recipient.
2. Petitioner's FAP eligibility was scheduled to expire at the end of February 2017.
3. As of March 2017, Petitioner paid [REDACTED] in rent.
4. On [REDACTED], MDHHS redetermined Petitioner to be eligible for [REDACTED] in FAP benefits, effective March 2017, in part, based on [REDACTED] rent and not factoring Petitioner's student loan obligations.

5. On [REDACTED], Petitioner requested a hearing to dispute the redetermination of FAP benefits.

### **CONCLUSIONS OF LAW**

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a determination of FAP benefits from March 2017. MDHHS presented a Notice of Case Action (Exhibit 1, pp.) dated [REDACTED]. The presented notice stated Petitioner was eligible for [REDACTED]/month in FAP benefits, effective March 2017.

Petitioner contended MDHHS was mandated to issue a second notice. Petitioner referred to the notice he did not receive as a "Notice of Intent". Petitioner did not elaborate on the purpose of the notice. MDHHS policy does not require any notice other than the one issued by MDHHS.

MDHHS presented Petitioner's FAP budget for March 2017 (Exhibit 1, pp. 4-6). The presented budget outlined the factors of Petitioner's FAP budget for March 2017. During the hearing, all budget factors were discussed with Petitioner. The FAP-budget factors will be considered with the requirements of BEM 556 which details the FAP benefit calculation.

MDHHS factored Petitioner had monthly gross unearned income of \$[REDACTED]. Petitioner conceded the amount to be accurate.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$[REDACTED] for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed Petitioner was a SDV member.

Verified countable medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care expenses. MDHHS factored Petitioner's child support expenses to be \$[REDACTED]/month; Petitioner testimony conceded the amount was correct. MDHHS

requires a [REDACTED] medical expense copayment for SDV members. Petitioner did not allege to have medical expenses exceeding the \$ [REDACTED] copayment.

Petitioner's FAP benefit group size justifies a standard deduction of \$ [REDACTED] (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$ [REDACTED].

MDHHS budgeted Petitioner's rent to be \$ [REDACTED]. The calculated amount was consistent with a statement from Petitioner's landlord (also Petitioner's father) stating that Petitioner is not currently paying rent because of a student loan obligation (see Exhibit 1, p. 3). Petitioner's testimony also conceded that he was not paying rent for March 2017. It is found MDHHS properly factored Petitioner's rent to be [REDACTED].

Petitioner contended if MDHS does not factor a rent obligation, then MDHHS should factor that he has to repay a student loan. Petitioner cited 7 CFR 273.10 to support his contention.

The regulation cited by Petitioner includes language about how state agencies factor educational income, not educational expenses. Neither federal regulation nor MDHHS policy are known to require MDHHS to factor a client's education expenses. It is found MDHHS properly did not factor Petitioner's educational expenses.

MDHHS credited Petitioner with a standard telephone credit of \$ [REDACTED] (see RFT 255). Petitioner testimony conceded he had no other utility obligations. Adding Petitioner's housing costs and utility credits results in a total shelter expense of [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$ [REDACTED].

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$ [REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance for March 2017 is found to be \$ [REDACTED] the same amount calculated by MDHHS.

Petitioner's testimony also contended MDHHS committed a procedural flaw following Petitioner's hearing request. Petitioner contended he should have received the FAP benefit amount that MDHHS issued to him before the reduction in FAP benefits for March 2017 because he timely requested a hearing.

A timely hearing request is a request received by the department within 10 days of the date the notice of case action was issued. BAM 600 (October 2016), p. 24. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. *Id.* Upon receipt of a timely hearing request, [MDHHS is to] reinstate program benefits to the former level for a hearing request filed because of a negative action. *Id.* For FAP only, these actions apply only if the benefit period has not expired. *Id.*

During the hearing, it was thought that Petitioner was entitled to receive the same amount of FAP benefits he received in February 2017 because of a timely hearing request. As it happens, Petitioner was not so entitled.

The presented Notice of Case Action indicated approval of FAP benefits from [REDACTED]. The timeframe is precisely a 2-year benefit period. An approval for a full 24-month (or 12-month) period is indicative of a redetermination of benefits. A redetermination of benefits is indicative of an expired FAP benefit period for the time before the approval date. As noted above, clients are not entitled to receive ongoing FAP benefits following an expiration of FAP benefits. Thus, Petitioner was not entitled to receive FAP benefits for March 2017 based on Petitioner's FAP eligibility for February 2017.

As discussed during the hearing, Petitioner appears eligible to receive FAP benefits through the Michigan Combined Application Project (MiCAP). MiCAP is a FAP "demonstration project (see BEM 618 (January 2016), p. 1) available to persons whose only income is SSI. Generally, FAP issuances through MiCAP are higher than those processed through local MDHHS offices; this is especially true for clients who have few rent and/or utility obligations. Petitioner may pursue FAP eligibility through MiCAP by calling (877) 522-8050.

Eligibility for FAP benefits through MiCAP is provided only as a courtesy to Petitioner for purposes of future FAP eligibility. MDHHS was under no obligation to determine Petitioner's eligibility under MiCAP due to Petitioner not applying for the program.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$[REDACTED] in FAP benefits beginning March 2017. It is further found that Petitioner was not entitled to receive additional FAP benefits for March 2017 pending a hearing outcome. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



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**Christian Gardocki**  
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]

[REDACTED]

**Petitioner**

[REDACTED]