



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 21, 2017
MAHS Docket No.: 17-003465
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], specialist.

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 was the only member of her FAP-benefit group.
3. In [REDACTED], Petitioner verified a [REDACTED] housing expense.
4. In [REDACTED], Petitioner verified an unspecified housing insurance expense.
5. On [REDACTED], MDHHS determined Petitioner to be eligible for [REDACTED] in FAP benefits, effective [REDACTED], in part, based on [REDACTED] in housing costs.

6. On [REDACTED], Petitioner requested a hearing to dispute FAP eligibility for [REDACTED].

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 concerning a decrease in FAP benefits. Petitioner testified she wished to dispute FAP benefits from [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner was eligible to receive \$ [REDACTED]/month beginning [REDACTED].

MDHHS presented a budget summary (Exhibit 1, p. 2) and budget pages (Exhibit 1, pp. 3-5). The document listed all factors used by MDHHS in the disputed benefit determination. During the hearing, all relevant FAP benefit factors were discussed with Petitioner. The below analysis incorporates the requirements of BEM 556 in determining whether MDHHS properly calculated Petitioner's FAP eligibility.

MDHHS budgeted [REDACTED] in unearned income. Petitioner testimony conceded the amount to be correct.

[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 (above [REDACTED], child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having any such expenses.

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 housing obligation to be [REDACTED]/month; MDHHS could not explain how the amount was calculated. Petitioner testified she is responsible for a land contract obligation of [REDACTED]/month.

MDHHS testimony contended Petitioner did not receive credit for a [REDACTED]/month expense because she did not submit verification during a redetermination processed in [REDACTED]. The MDHHS contention was not persuasive.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554 ([REDACTED]), pp. 12-13). [MDHHS is to] verify shelter expenses at application and when a change is reported. *Id.*, p. 13.

Notably absent from the shelter expense verification policy is a requirement to verify expenses at redetermination. MDHHS policy requires no verification of shelter expense when there is no change in the obligation. Thus, Petitioner had no obligation to verify her housing obligation at the redetermination unless there had been a change in the obligation.

Petitioner testified her housing expense has not changed in the last 7 years. MDHHS testimony conceded Petitioner verified her [REDACTED] housing obligation in [REDACTED]. MDHHS presented no evidence to justify excluding the [REDACTED] obligation. MDHHS testimony further conceded Petitioner also verified an unspecified property insurance obligation.

MDHHS will be ordered to redetermine Petitioner's FAP eligibility based on Petitioner's verified [REDACTED] land contract expense, as well as Petitioner's unspecified and verified home insurance obligation. For purposes of the remaining analysis only, it will be assumed that MDHHS properly factored Petitioner's housing expenses to be [REDACTED]

MDHHS credited Petitioner with the maximum heat/utility standard of [REDACTED] (see RFT 255). Petitioner's total shelter expenses are found to be [REDACTED] (rounding to nearest dollar).

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, using the improper housing expense, Petitioner's proper FAP benefit issuance for [REDACTED]

█████ is found to be █████ MDHHS calculated the same benefit issuance. Thus, housing expenses appears to be the only budget error.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) redetermine Petitioner's FAP eligibility, effective █████ █████, subject to a previously verified █████ land contract expense and unspecified property insurance expenses; and
- (2) issue a supplement of any FAP benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



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]
[REDACTED]

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]