



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.: 17-003923  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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] [REDACTED] from Detroit, Michigan. The Petitioner was present for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective February 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. On [REDACTED], Petitioner applied for FAP benefits.
2. In the application, Petitioner reported child support payments and shelter expenses.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that his FAP benefits were approved for \$ [REDACTED] effective [REDACTED] [REDACTED] Exhibit A, pp. 7-10.
4. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

## 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 present case, Petitioner disputed the amount of FAP benefits he was approved for, effective [REDACTED]. As such, the undersigned Administrative Law Judge (ALJ) reviewed the FAP budget from [REDACTED] in the present matter. Exhibit A, pp. 16-17.

First, it was not disputed that the certified group size is one and that Petitioner is not a senior/disabled/disabled veteran (SDV) member.

Second, the Department calculated Petitioner's self-employment income to be \$ [REDACTED] which he did not dispute. Exhibit A, p. 16.

Then, Petitioner's gross countable earned income is reduced by a 20 percent earned income deduction. See BEM 550 (January 2017), p. 1. This results in Petitioner's post earned income deduction amount to be \$ [REDACTED] (\$ [REDACTED] total earned income minus \$ [REDACTED] (20% of the total income)). See Exhibit A, p. 16.

Next, the Department will provide deductions to Petitioner in which he is eligible to receive, which will reduce his total income. The Department first properly applied the \$ [REDACTED] standard deduction applicable to Petitioner's group size of one. RFT 255 (October 2016), p. 1. Petitioner also did not dispute that he does not have any dependent care expenses. However, Petitioner argued that he was eligible for the child support deduction in which the Department did not budget such expenses. Exhibit A, p. 16. The Department agreed that it should have budgeted a child support deduction because he properly informed the Department in his application that he is responsible for such expenses. In fact, the Department presented evidence showing that he is responsible for child support payments. Exhibit A, pp. 11-13. For groups with no SDV member, the Department uses court ordered child support and arrearages paid to non-household members. BEM 554 (January 2017), p. 1. The Department verifies child support expenses and arrearages paid to non-household members at application, redetermination and when a change is reported. BEM 554, p. 6.

Based on the foregoing information, the Department failed to verify his reported child support expenses that he indicated in his application. As stated above, the Department acknowledged that it should have budgeted his child support expense. As such, the

Department is ordered to verify and recalculate Petitioner's child support expenses effective [REDACTED], in accordance with Department policy. See BEM 505 (July 2016), pp. 5-6, (child support income budgeting) and BEM 554, pp. 1 and 6-7.

Also, the Department provides Petitioner with an excess shelter deduction, which encompasses his housing expenses and utility expenses. The Department presented Petitioner's shelter expenses from his Notice of Case Action dated [REDACTED]. Exhibit A, pp. 7-8. The budget showed that it did not budget any housing expenses for Petitioner, which he disputed. Petitioner testified his monthly housing expenses is \$ [REDACTED]. Exhibit A, p. 5. It was not disputed that Petitioner informed the Department of his shelter expenses in his application; however, the issue was whether he provided verification of his expenses. Petitioner resides with his mother and he obtained a revised lease agreement showing that he and his mother were on the lease. Petitioner testified that he provided verification of the revised lease agreement with the application.

In response, the Department testified that it did not receive any verification of his revised lease agreement on the date of the application. In fact, the Department sent Petitioner a Verification Checklist (VCL) requesting proof of his home rent on [REDACTED]; and it was due back by [REDACTED]. The Department testified that it did not receive any verification of his revised lease agreement until after the due date on [REDACTED]. Petitioner acknowledged that he received the VCL and failed to provide verification of his revised lease agreement. The Department indicated that it did have verification of the old lease agreement that it received on [REDACTED], but only showed his mother's name on it.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Do not prorate the shelter expense even if the expense is shared. BEM 554, p. 12. Shelter expenses are allowed when billed. BEM 554, p. 12. The expenses do not have to be paid to be allowed. BEM 554, p. 12. Late fees and/or penalties incurred for shelter expenses are not an allowable expense. BEM 554, p. 12.

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, pp. 12-13.

The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 14. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the Department properly did not budget any housing expenses for Petitioner in accordance with Department policy. Petitioner failed to provide any evidence showing that he submitted his revised lease agreement to the Department on the date of his application. Moreover, the Department provided Petitioner with an opportunity to submit his lease agreement when it requested verification of it on

██████████; but he failed to respond to the VCL. As such, because Petitioner failed to verify his housing expenses, the Department properly did not budget such expenses in accordance with Department policy. BEM 554, p. 12. It should be noted that Petitioner did provide verification of his revised lease agreement on ██████████ ██████████ therefore, the Department should process his reported verification in housing expenses to affect his future FAP allotments in accordance with Department policy. Now, if the Department did not process his housing verification, he can attempt to request another hearing to dispute the Department's failure to process his reported change in housing expenses. See BAM 600 (October 2016), pp. 1-6.

Finally, the Department also provided Petitioner with the \$██████████ mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$██████████ amount. See Exhibit A, p. 5; BEM 554, pp. 14-16; and RFT 255, p. 1.

In summary, because the Department failed to properly calculate Petitioner's child support expenses in accordance with Department policy, the Department is ordered to recalculate Petitioner's FAP allotment effective ██████████.

### **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 improperly calculated Petitioner's FAP allotment effective ██████████.

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 the FAP budget (including the child support expenses) effective ██████████;
2. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from ██████████; and
3. Notify Petitioner of its decision.

EJF/jaf

  
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**Eric J. Feldman**  
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]

**Petitioner**

[REDACTED]  
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