



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: August 18, 2017
MAHS Docket No.: 17-009008
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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; 42 CFR 438.400 to 438.424; 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 August 9, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Beverly Wilkerson, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of 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 was an ongoing recipient of FAP benefits.
2. In connection with a reported change in income, Petitioner's eligibility to receive FAP benefits was reviewed.
3. On June 23, 2017, the Department sent Petitioner a Notice of Case Action advising her that effective August 1, 2017, she was approved for FAP benefits in the amount of \$383 for her household size of three people. (Exhibit A, p. 17)

4. Petitioner is employed and has biweekly earnings from employment. (Exhibit A, pp. 11-16)
5. Petitioner's confirmed household size for FAP purposes is three; her confirmed monthly rent is \$247; and she is responsible for electric and telephone expenses.
6. On July 5, 2017, Petitioner requested a hearing disputing the calculation of her FAP benefits (Exhibit A, p. 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 this case, Petitioner requested a hearing disputing the decrease in her FAP benefits to \$383 effective August 1, 2017. The Department testified that after updating the income information it had on file for Petitioner, it determined that she and her group members were eligible for \$383 in monthly FAP benefits. The Department presented a FAP EDG Net Income Results Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits. (Exhibit A, pp. 8-10).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

According to the budget provided, the Department concluded that Petitioner's group had earned income in the amount of \$887 which it testified consisted of Petitioner's biweekly earnings from employment. Specifically, the Department stated that it relied on the paystubs provided and identified the pay amounts and pay dates considered. (Exhibit A, pp. 11-16). Petitioner confirmed that the paystubs relied upon by the Department were correct and accurate. Upon further review of the income amounts relied upon and in consideration of the prospective budgeting policy referenced above, the Department properly calculated Petitioner's earned income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group included a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2017), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department properly determined that Petitioner was eligible for a 20% earned income deduction of \$178. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly did not include any deduction for dependent care or child support. Based on Petitioner's three-person group size, the Department properly applied the \$151 standard deduction. RFT 255 (October 2016), p. 1.

In calculating the excess shelter deduction of \$132, the Department testified that it considered: \$247 in housing expenses consisting of monthly rent; the \$131 non-heat electric standard; and the \$33 telephone standard. The Department testified that Petitioner was not eligible for the \$526 heat-utility standard because she is not responsible for heating/gas expenses at her residence.

The heat/utility standard (h/u) standard covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in the cost of their monthly rent may still be eligible for the h/u standard if: they are billed for excess heat payments from their landlord; they have received a home heating credit in an amount greater than \$20 for the applicable period; or they have received a Low Income Home Energy Assistance Payment (LIHEAP) or a LIHEAP payment was made on their behalf in an amount greater than \$20 for the applicable period. Additionally, FAP groups who pay cooling (including room air conditioners) are eligible for the h/u standard if they verify their responsibility to pay for non-heat electric expenses. BEM 554, pp. 15-25. FAP groups not eligible for the h/u standard who have other utility expenses or

contribute to the costs of other utility expenses are eligible for the individual utility standards. BEM 554, p. 21.

At the hearing, Petitioner confirmed that her monthly rent is \$247, that she is not responsible for heating/gas expenses and that she has electric and telephone expenses. Petitioner further confirmed that she is not billed for excess heating or cooling, and there was no evidence presented that Petitioner had a low-income home energy assistance payment made on her behalf for the applicable period. Although Petitioner made reference to a home heating credit, there was no evidence presented that Petitioner did in fact receive a home heating credit for the applicable period or that Petitioner notified the Department of such credit. As such, based on the information available to the Department at the time the budget was completed, the Department properly excluded the \$526 h/u standard from the calculation of the excess shelter deduction and properly included only the \$131 non-heat electric standard, the \$33 telephone standard and the \$247 in housing expenses. Thus, the Department properly calculated the excess shelter deduction.

Upon further review, the Department properly reduced Petitioner's gross income of \$887 by the \$178 earned income deduction, the \$151 standard deduction, and the \$132 excess shelter deduction resulting in monthly net income of \$426. Based on net income of \$426 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Petitioner's FAP group was eligible for monthly FAP benefits of \$383. BEM 556; RFT 260 (October 2016), p. 6.

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 effective August 1, 2017.

DECISION AND ORDER

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

ZB/tlf



Zainab A. Baydoun

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:

MDHHS-Wayne-15-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner – Via First-Class Mail:

