



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 15, 2017
MAHS Docket No.: 17-010546
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, an in-person hearing was held on September 11, 2017, from Sterling Heights, Michigan. The Petitioner appeared for the hearing with her husband [REDACTED] and her Authorized Hearing Representative (AHR) [REDACTED] who also served as Arabic interpreter. The Department of Health and Human Services (Department) was represented by Hiba Murray, Hearing Facilitator.

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 is an ongoing recipient of FAP benefits.
2. In connection with a semi-annual, Petitioner's eligibility to receive FAP benefits was reviewed.
3. On June 1, 2017 the Department sent Petitioner a Semi-Annual Contact Report (Semi-Annual) instructing her to complete the form and submit proof of reported changes to the Department by July 1, 2017 or her FAP case will close effective July 31, 2017. (Exhibit A, pp. 3-4)

4. The Semi-Annual further informs Petitioner that a failure to submit required proofs with the completed form could result in a case closure or benefit reduction.
5. On July 13, 2017 the Department received Petitioner's completed Semi-Annual. (Exhibit A, pp. 3-4)
6. On the Semi-Annual, Petitioner reported that the group's earned income had decreased from \$424 to \$225 and that there had been changes to the household's unearned income from Retirement Survivors Disability Insurance (RSDI) benefits. Petitioner reported that there were no changes to housing expenses. (Exhibit A, pp. 3-4)
7. Petitioner did not submit proof of the changes in earned and unearned income with the completed Semi-Annual.
8. On July 18, 2017 the Department sent Petitioner a Notice of Case Action (Notice) advising her that she was approved for FAP benefits in the amount of \$120 effective August 1, 2017. (Exhibit A, pp. 9-10)
9. On August 4, 2017 Petitioner requested a hearing disputing the Department's actions with respect to the amount of her FAP benefits. (Exhibit A, 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 this case, Petitioner requested a hearing disputing the decrease in her FAP benefits to \$120 effective August 1, 2017. The Department testified that after processing the Semi-Annual, it determined that Petitioner's group was eligible for \$120 in FAP benefits. The Department stated that because Petitioner did not submit proof of the reported changes in income with the Semi-Annual, it relied on information obtained through a consolidated inquiry, the SOLQ and the information that it previously had on file for Petitioner's case in order to process Petitioner's FAP eligibility. The Department testified that after receiving the Semi-Annual, it did not send Petitioner a Verification Checklist (VCL) instructing her to verify the income changes reported on the Semi-Annual because Petitioner was instructed to submit proof of changes with the Semi-Annual and

failed to do so. See BAM 210 (July 2017), pp. 10-11. 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.12-14).

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 (July 2017), 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. 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 household had earned income in the amount of \$424 which consisted of monthly earnings for Petitioner's husband. The Department testified that although Petitioner reported on the Semi-Annual that her husband's income had decreased to \$225, because Petitioner did not submit proof of the income change, it relied on the consolidated inquiry which showed no income changes and continued to budget the \$424 previously on file.

Petitioner and her AHR confirmed that proof of the updated decreased earned income was not returned with the Semi-Annual and asserted that the Department was required to send a VCL requesting income verifications. However, BAM 210 indicates that if a client's gross income has changed by more than \$100 from the pre-filled amount on the Semi-Annual form, the client must return verification of his or her past 30 days of earnings with the completed DHS-1046 (Semi-Annual). BAM 210, p.11. Thus, based on the information available and presented to the Department, it properly considered earned income of \$424 monthly. Petitioner is informed that should she submit proof of the decreased earnings, the Department will process the verified income decrease and recalculate the FAP budget.

The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2017), pp. 31-32. The Department concluded that Petitioner's household had gross unearned income in the amount of \$2568 which consisted of RSDI benefits for Petitioner (\$263), Petitioner's husband (\$1582), Petitioner's two sons (\$263 each) and Petitioner's daughter (\$197). While Petitioner confirmed that the RSDI for Petitioner and her two sons was correct, she maintained that Petitioner's husband's RSDI was only \$1400 and the \$197 in RSDI for Petitioner's daughter had stopped in August 2016. The Department provided SOLQ for Petitioner's husband showing gross monthly RSDI of \$1582 with no applicable reductions. (Exhibit B). Thus, because Petitioner did not provide documentation that the actual gross monthly RSDI for her husband was \$1400, the Department properly relied on the SOLQ and considered \$1582. With respect to Petitioner's daughter, the

Department conceded that according to the SOLQ, Petitioner's daughter's RSDI was terminated in August 2016 and should not be included in the current FAP budget. (Exhibit B). Therefore, because the Department improperly included \$197 in RSDI for Petitioner's daughter, the Department failed to establish that Petitioner's household had unearned income in the amount of \$2568.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- 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 an earned income deduction of \$85 based on 20% of \$424. There was no evidence presented that Petitioner had any out-of-pocket dependent care, medical expenses or child support expenses. Therefore, the budget properly did not include any deduction for dependent care, medical expenses or child support. The Department properly applied a \$191 standard deduction based on Petitioner's confirmed group size of five.

With respect to the excess shelter deduction of \$511, the Department testified that because Petitioner indicated that there were no changes to her housing expenses on the Semi-Annual, it used the information previously on file and considered total housing expenses of \$1378.35 which consisted of Petitioner's: monthly first mortgage (\$950.64); second mortgage (\$151.27); and annual property taxes of \$2433.84 (which when taken monthly are \$202). Although Petitioner asserted that she also had home insurance, the Department stated that verification of Petitioner's home insurance was not received until August 15, 2017, thus, it was properly excluded from the excess shelter deduction at the time of the Semi-Annual, as it was not reported as an expense on the form. Upon review, although the Department properly considered the \$526 heat and utility standard, the amounts relied upon for the mortgages and property taxes however do not total \$1378.35, thus, it was unclear how the Department determined Petitioner's housing expenses.

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 because of the errors in the calculation of the unearned income and excess shelter deduction, the Department did not act in accordance with Department policy when it calculated the amount of Petitioner's FAP benefits effective August 1, 2017.

DECISION AND ORDER

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 Petitioner's FAP budget for August 1, 2017, ongoing;
2. If Petitioner is eligible for FAP benefits, issue FAP supplements to Petitioner from August 1, 2017, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and
3. Notify Petitioner and her AHR in writing of its decision.



ZB/tf

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-Macomb-20-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MAHS

Petitioner

- **Via First-Class Mail:**

[REDACTED]

Authorized Hearing Rep.

- **Via First-Class Mail:**

[REDACTED]