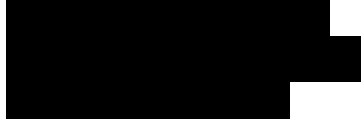




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 27, 2017
MAHS Docket No.: 17-010987
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 September 25, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by April Williams, Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate 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 FAP recipient for herself and her son.
2. Effective May 1, 2017, Petitioner's FAP benefits were reduced. In May 2017, Petitioner received FAP benefits in the amount of \$52. In June 2017, Petitioner received FAP benefits in the amount of \$28. In July 2017, Petitioner received FAP benefits in the amount of \$52.
3. Effective August 1, 2017, ongoing, Petitioner's monthly FAP benefits were calculated to be \$87.
4. On August 7, 2017, Petitioner submitted a request for hearing disputing her FAP benefit amount.

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, the Department reduced Petitioner's FAP benefits effective May 1, 2017. The Department presented an Eligibility Summary showing Petitioner's FAP benefit issuance (Exhibit A). According to the Eligibility Summary, Petitioner was issued FAP benefits in the amount of \$52 in May 2017, \$28 in June 2017 and \$52 in July 2017. The Department failed to present a Notice of Case Action or any supporting information as to when Petitioner was notified of the change in her FAP benefit amount for the months of May 2017 through July 2017.

A request for a hearing must be submitted within 90 days from the date of the written notice of case action. BAM 600 (April 2017), p. 6. As the Department was unable to provide evidence as to when Petitioner was notified of the changes in her FAP benefit amount, it cannot be determined if Petitioner's request for hearing that was submitted on August 7, 2017, was timely with respect to the FAP benefit amount beginning May 2017. Therefore, Petitioner's FAP benefit issuance amount for May 2017, ongoing, will be considered.

The Department was unable to provide any evidence as to how Petitioner's FAP benefits were calculated for the months of May 2017 through July 2017. Therefore, the Department failed to establish that it acted in accordance with policy when calculating Petitioner's FAP benefits for those months.

For August 1, 2017, ongoing, the Department presented a budget that was used in calculating Petitioner's FAP benefits (Exhibit D, pp. 1-6). All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. According to the budget provided, the Department concluded that Petitioner's unearned income was \$1,517. Petitioner's unearned income comprised of Petitioner's Retirement, Survivors and Disability Insurance (RSDI) and Supplemental Security Income (SSI) benefits, as well as Petitioner's son's SSI benefits. Petitioner confirmed the Department's unearned income figure was correct. Petitioner had no earned income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. 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.
- Medical deduction.
- An earned income deduction equal to 20% of any earned income.

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

There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

Petitioner's FAP benefit group size of two justifies a standard deduction of \$151. RFT 255 (October 2016), p. 1. 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. The Department properly calculated Petitioner's adjusted gross income to be \$1,366.

In calculating the excess shelter deduction of \$468, the Department stated that it considered Petitioner's verified housing expense of \$625 and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of \$526. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$468 per month.

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 \$898. A chart listed in RFT 260 (October 2016), p. 12, is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, the Petitioner's FAP benefit issuance for August 1, 2017, ongoing, is found to be \$87 monthly. Therefore, the Department acted in accordance with policy when it calculated Petitioner's FAP budget for August 1, 2017, ongoing.

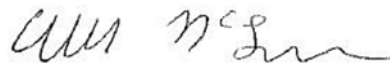
DECISION AND ORDER

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 acted in accordance with Department policy when it calculated Petitioner's FAP benefit amount for August 1, 2017, ongoing, but the Department failed to satisfy its burden showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefits for May 2017 through July 2017.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the calculation of Petitioner's FAP benefits for August 1, 2017, ongoing, and **REVERSED IN PART** with respect to the calculation of Petitioner's FAP benefits for May 2017 through July 2017.

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 benefit amount for May 2017 through July 2017.
2. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not for the period of May 2017 through July 2017.
3. Notify Petitioner of its FAP decision in writing.



EM/jaf

Ellen McLemore
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

MDHHS-Wayne-76-Hearings

Petitioner



BSC4
M Holden
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