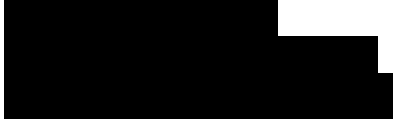




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 22, 2017
MAHS Docket No.: 17-011012
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 21, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Becky Fraser, Family Independence Manager; Veronica Rumschlag, Eligibility Specialist; and Selice Bond, Regulation Agent with the Office of Inspector General (OIG).

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

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. On June 6, 2017, Petitioner returned a completed Redetermination for her FAP case, identifying three members of her household, herself and her two minor children. (Exhibit A, pp. 1-10).
3. In June 2017, the Department initiated an investigation regarding Petitioner's FAP group size based on a referral that Petitioner was married.

4. On August 9, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was being closed due to the FAP group exceeding the gross income limit.
5. On August 11, 2017, Petitioner submitted a Request for Hearing disputing the Department's actions.

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 submitted a Redetermination on June 6, 2017. In the Redetermination, Petitioner indicated that she and her two children were the only individuals living in her household. Petitioner also notified the Department that the only household income was a result of her income from employment.

Prior to Petitioner's Redetermination, the Department received a referral from [REDACTED] that Petitioner was married. Petitioner had not previously disclosed that she was married. The Department conducted an interview with Petitioner on [REDACTED], 2017. Petitioner denied that she was married. However, Petitioner later recanted the statement and admitted that she had gotten married in the Dominican Republic in [REDACTED] 2013. Petitioner came to the United States with her husband, and they filed taxes jointly in 2013. Petitioner informed the Department that she had since separated from her husband, and they were no longer living together.

The Department retrieved Petitioner's husband's driver's license and discovered his listed address was the same as Petitioner's. The Department requested that Petitioner submit verification that her husband was living at a different address. Petitioner provided a lease agreement for her husband with a separate address from her own. The lease indicated that Petitioner's husband lived in a basement unit. The Department went to the address on the lease agreement and spoke with the landlord. The landlord confirmed that Petitioner's husband lived at the address in the basement unit. However, upon further investigation, the Department discovered that the basement lacked any indication that a person was living in the unit. The only items in the basement were a

computer desk and broken massage chair. There was no other furniture or personal effects of any kind.

Because the Department's evidence supported that Petitioner's husband lived with her, the Department properly followed policy and added Petitioner's husband to the FAP group. Spouses who are legally married and live together must be in the same group. BEM 212 (January 2017), p. 1. Petitioner's husband's driver's license indicates he lives at the same residence as Petitioner. Petitioner failed to provide adequate verification that her husband lived at a different residence, as he clearly did not reside at the address provided on the lease agreement. As a result of the change in group size, the Department recalculated Petitioner's FAP benefits.

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), p. 1. 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

When calculating Petitioner's earned income from employment, the Department used two pay statements that were submitted by the Petitioner with the June 6, 2017 Redetermination. (Exhibit A, pp. 9-10). Petitioner was paid on a biweekly basis. Petitioner was paid on June 8, 2017, in the amount of \$846.84 and on June 22, 2017, in the amount of \$824.64. The Department testified that it averaged the two amounts and multiplied the average by the 2.15 multiplier to arrive at a monthly total of \$1,811.16 for Petitioner's income from employment.

For Petitioner's husband's income, the Department used payroll records that were received from his employer (Exhibit E, pp. 1-2). Per the payroll records, Petitioner's husband was paid on a weekly basis. The Department used the payments that were issued to Petitioner's husband on May 26, 2017, in the amount of \$585.94, June 2, 2017, in the amount of \$550.84, June 9, 2017, in the amount of \$739.55 and June 16, 2017, in the amount of \$607.79. The Department averaged the amounts and multiplied the average by the 4.3 multiplier.

The Department testified it calculated the monthly household income to be \$4,481. There was no evidence that there was a Senior/Disabled/Veteran (SDV) member in the

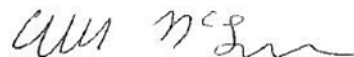
household. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250. Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2016), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a four-person FAP group, the applicable 200% gross income limit is \$4,050. As the Department's monthly household gross income calculation of \$4,481 exceeded the gross income limit, Petitioner's FAP benefit case was closed, effective August 1, 2017, ongoing.

The Department slightly miscalculated Petitioner's monthly income. Petitioner's monthly income should be \$1,796, making the monthly household income \$4,466. However, given that Petitioner would not have been entitled to benefits, as the correct household gross income calculation exceeds the gross income limit, the Undersigned finds harmless error in the miscalculation of the household gross income. Therefore, the Department acted in accordance with policy when closing Petitioner's FAP benefit case, effective 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 closed Petitioner's FAP case, effective August 1, 2017.

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



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-Kent-Hearings

Petitioner



BSC4
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