



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 16, 2017
MAHS Docket No.: 17-011669
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 October 11, 2017, from Detroit, Michigan. Petitioner was present and represented herself. Petitioner was also present with her caregiver, [REDACTED]. The Department of Health and Human Services (Department) was represented by Danielle Sorrell, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit amount?

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 FAP recipient.
2. On July 20, 2017, Petitioner contacted the Department requesting an increase in FAP benefits. As a result, Petitioner's FAP eligibility was reviewed.
3. On July 20, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount would be decreasing to \$16 per month effective September 1, 2017, ongoing.
4. On September 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 contacted the Department on July 20, 2017, and requested an increase in her FAP benefits. The Department reviewed Petitioner's FAP eligibility and determined that she was receiving medical deductions in error. The Department removed the deductions and recalculated Petitioner's FAP benefit amount. The Department presented a budget summary for the recalculation of Petitioner's FAP benefits (Exhibit D). All aspects of the budget were reviewed.

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. 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. 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. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501 (July 2017), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7.

According to the budget provided, the Department determined Petitioner had a monthly unearned income amount of \$1,149. Petitioner confirmed the Department's figure was accurate. Petitioner's unearned income was her sole income and she was the only member of the FAP group. Therefore, the Department properly determined Petitioner's total income amount was \$1,149.

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.

Petitioner did not have any earned income. Therefore, she was not entitled to an earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

Petitioner was previously budgeted a \$1,841 medical expense deduction (Exhibit C). Petitioner had submitted verifications of medical expenses from 2009 (Exhibit B). The medical expenses were for inpatient hospitalization/nursing care, and for medical, dental and vision services. The Department testified Petitioner's medical expenses from 2009 should have been budgeted as one-time-only expenses, as they were expenses related to a temporary hospitalization. However, they were mistakenly classified as ongoing medical expenses. The Department corrected the error and removed the expenses. Additionally, Petitioner had not submitted any verified medical expenses since 2009. As a result, Petitioner was not budgeted any medical expense deduction.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. Petitioner testified she had been recently hospitalized and was expecting to receive a bill for the expense. Petitioner informed the Department she had current ongoing medical expenses, but was unsure as to the amount, as she discards the bills upon receipt. Although Petitioner may have ongoing medical expenses, policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Medical expense changes can be reported and processed during the benefit period, but the expenses must be verified. BEM 554, p. 9. There was no evidence that Petitioner submitted verification of any current medical expenses. Therefore, the Department properly determined Petitioner was not entitled to any medical expense deductions.

Petitioner's FAP benefit group size of one 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 \$998.

In calculating the excess shelter deduction of \$274, the Department stated that it considered Petitioner's verified housing expense of \$247 and that she was responsible for

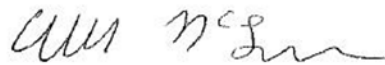
a monthly heating expense, entitling her to the heat/utility standard of \$526. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$274 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 \$724. A chart listed in RFT 260 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 is found to be \$16 RFT 260 (October 2016), p. 1. Therefore, the Department acted in accordance with policy when it calculated Petitioner's FAP budget for September 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 benefits amount for September 1, 2017, ongoing.

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-Wayne-82-Hearings

Petitioner



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