



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: February 5, 2018
MAHS Docket No.: 17-015854
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 31, 2018, from Detroit, Michigan. The Petitioner was represented by his wife, [REDACTED]. An Interpreter, [REDACTED] also appeared as a Spanish Translator for the Petitioner. The Department of Health and Human Services (Department) was represented by Cynthia Allen, Assistance Payment's Supervisor and Pamela Madison, Assistance Payments Worker.

ISSUE

Did the Department properly calculate the Petitioner's 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. The Petitioner completed a redetermination for FAP for November 1, 2017 and reported a change in her land contract expense which was verified in the amount of \$500.00
2. The Petitioner provided verification of the land contract amount of \$500.00 on November 2, 3017. The Petitioner also provided proof of property taxes for \$998.81. Exhibit 1
3. The Petitioner has a group of 5 members and earned income of \$2,494. Exhibit 2.

4. The Petitioner received FAP benefits for November 2017 for \$221.00 but the Department did not include the increased land contract amount when it calculated the benefits.
5. The Department issued a Notice of Case Action on December 1, 2017 indicating the FAP benefit increase for December 2017 to \$287.00 and also issued a FAP supplement for November 2017 for \$66.00 because the Department did not include the land contract amount in the budget for November 2017 even though timely provided by Petitioner. Exhibit 2 and Exhibit 3.
6. The Petitioner requested a timely hearing on [REDACTED] 2017 protesting the Department's action reducing FAP for November 2017

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 Petitioner requested a hearing when her food assistance benefits were decreased after a redetermination she completed for November 1, 2017. At the hearing the Food Assistance budget was reviewed and as explained hereafter is correct as calculated. The decrease in November was due to the Department not including the confirmed and verified land contract amount of \$500 a month which was timely provided by Petitioner as part of the redetermination. The Department recalculated the FAP benefits for December 2017 and determined the correct benefit amount for FAP to be \$287. The Department also issued a supplement of November 2017 FAP benefits to correct the November 2017 benefits. Exhibit 2.

The following amounts used by the Department to recalculate FAP benefits are correct and were confirmed by Petitioner at the hearing. Earned income was \$2,494.00. The FAP group size was 5 members and the housing cost were \$583.21 which included land contract of \$500 and taxes of \$83 per month. The Department also provided a Heat and Utility allowance of \$537 and a standard income deduction of \$199 based on a group size of 5.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1 – 4. The Department considers the gross amount of money earned or received from RSDI social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of five members BEM 550 (February 2016), pp. 1-2. Groups 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 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

In this case, Petitioner had earned income and therefore was required to apply a 20% earned income deduction of \$499 which was deducted from the gross income resulting in Post earned income of \$1995. ($\$2494 - \$499 = \$1,995.00$). There was no evidence presented that Petitioner had any dependent care, or paid child support. Therefore, the budget properly did not include any deduction, dependent care expenses, child support and medical expense. Based on confirmed 5 person group size, the Department properly applied the \$199 standard deduction. RFT 255 (October 2014), p. 1.

When the Standard Deduction of \$199 is deducted from the post earned income of \$1,995 it is determined that the Department correctly determined the Adjusted Gross income to be \$1796.00. ($\$2494 - \$499 - \$199 = \$1,796.00$). Exhibit 2 and Exhibit 3.

In calculating Petitioner's excess shelter deduction, the Department must determine the eligible monthly shelter costs. The Department properly considered Petitioner's \$500 monthly housing expense for the land contract payment and \$537 heat and utility allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The Department correctly determined the shelter expenses to be \$1,120. A review of the excess shelter deduction calculation and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$222. BEM 556, pp. 4-5; RFT 255, p. 1.

In determining monthly net income of \$1,574, 50% of the adjusted gross income of \$1796 is deducted from the shelter expenses of \$1,120. ($\$1120 - \$898 = \222). The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income. ($\$1796 - \$222 = \$1574$). Based on net income of \$1574 and a FAP group size of 5 members, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$287. BEM 556; RFT 260 (October 2016), p. 8. See Exhibit 3.

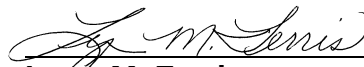
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department correctly calculated the Petitioner's FAP benefits and properly supplemented the November 2017 FAP benefits and acted in accordance with Department policy when doing so.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/cg



Lynn M. Ferris

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-41-Hearings
M. Holden
D. Sweeney
BSC4-Hearing Decisions

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]