



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 16, 2018
MAHS Docket No.: 17-015946
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, an in-person hearing was held on January 8, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Nicole Carey, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine 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 November 30, 2017, Petitioner completed a redetermination.
3. Petitioner was a member of a group that consisted of herself and her minor child.
4. Petitioner had income from employment (Exhibit B).
5. On November 30, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that she was approved for benefits in the amount of \$134 per month effective December 1, 2017, ongoing (Exhibit A).

6. On December 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 request for hearing to dispute her FAP benefit amount. Petitioner completed a FAP redetermination on November 30, 2017. The Department sent Petitioner a Notice of Case Action on November 30, 2017, informing her that she was approved for FAP benefits in the amount of \$134 per month effective December 1, 2017, ongoing. The Department presented a FAP budget to establish how Petitioner's FAP benefits were calculated (Exhibit C).

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 (October 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. 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. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

Pursuant to the redetermination, the Department conducted an interview with Petitioner on or around [REDACTED], 2017. Petitioner informed the Department that she was unemployed. However, the Department retrieved a wage match showing Petitioner had income in the third quarter of 2017 at [REDACTED] (Exhibit D). The Department also

retrieved a Work Number report, which showed Petitioner's employment status was listed as active and she had been recently receiving income. The Department believed Petitioner was employed and used the reported earnings in the Work Number to calculate Petitioner's earned income. According to the budget, Petitioner's income was calculated to be \$1,106 per month. The Department testified it used the payments issued to Petitioner on November 2, 2017, in the amount of \$520.10, and November 16, 2017, in the amount of \$339.86. However, it is evident the Department used the November 2, 2017, payment amount with the payment issued on October 5, 2017, in the amount of \$507.89. When averaging the two payment amounts and multiplying by the 2.15 multiplier, it results in an average monthly amount of \$1,106. The Department properly calculated Petitioner's monthly income.

Petitioner testified that she was unemployed. Petitioner stated that she had never worked at [REDACTED] and believed that her personal information had been stolen. However, the Work Number has Petitioner's correct name, date of birth, social security number, and address. Petitioner's testimony that she was not employed was not credible.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. 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.
- An earned income deduction equal to 20% of any earned income.

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

The Department will reduce the gross countable earned income by 20% and is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$222. Petitioner's FAP benefit group size of two, which is comprised of herself and her minor child justifies a standard deduction of \$160. RFT 255 (October 2017), p. 1. 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.

In calculating the excess shelter deduction of \$0, the Department stated that it considered that Petitioner did not have a verified housing expense, nor did she contribute to the payment of utilities. The Department testified Petitioner was only entitled to the \$32 telephone standard. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted

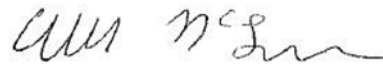
50% of the adjusted gross income, which resulted in a deficit. Therefore, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$724. As Petitioner was not entitled to an excess shelter deduction, her net income is also \$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 \$134. Therefore, the Department properly determined Petitioner's FAP benefit amount.

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 determined Petitioner's FAP benefit amount. Accordingly, the Department's decision is **AFFIRMED**.

EM/



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.

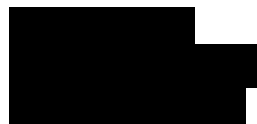
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

MDHHS-Wayne-76-Hearings

Petitioner



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