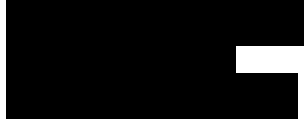




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 2, 2018
MAHS Docket No.: 17-016448
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 January 29, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount for November and December 2017?

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 [REDACTED], 2017, Petitioner submitted an application for State Emergency Relief (Exhibit A, pp. 29-32). Petitioner indicated her address was on [REDACTED].
3. On September 11, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her rental expense (Exhibit A, pp. 12-13).
4. On October 2, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit amount was decreasing to \$267 per month effective November 1, 2017, ongoing, as the rental expense was no longer included in the budget (Exhibit A, pp. 6-10).

5. On November 3, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefit amount was decreasing to \$246 per month effective December 1, 2017, ongoing (Exhibit A, pp. 1-5).
6. In November and December 2016, Petitioner received \$730 in Retirement, Survivors and Disability Insurance (RSDI) benefits (Exhibit A, p. 23).
7. Petitioner received \$40 per month in child support (Exhibit A, p. 25).
8. Petitioner receives quarterly State SSI Payments in the amount of \$42 (Exhibit A, p. 28).
9. On November 29, 2017, Petitioner submitted verification of her housing expenses.
10. On December 1, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was increasing to \$430 per month effective January 1, 2018, ongoing.
11. On December 18, 2017, Petitioner submitted a request for hearing disputing the Department's calculation of her FAP benefits.

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 hearing request to dispute her November and December 2017 FAP benefit amount. Petitioner stated she was satisfied with the Department's decision regarding her FAP benefits for January 1, 2018, ongoing. Specifically, Petitioner disputed the Department's failure to include a shelter expense and the calculation of her income for November and December 2017.

Petitioner submitted an application for SER benefits on [REDACTED], 2017. In the application, Petitioner indicated she was being evicted from her home located on [REDACTED]. The Department sent Petitioner a VCL requesting verification of her shelter

expense on September 11, 2017, as the [REDACTED] address was not in their records. Proofs were due by September 21, 2017.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 13. The expense must be a continuing one. BEM 554, p. 13. The Department will verify shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. BEM 554, p. 14. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department testified Petitioner did not submit verification of her housing expense until November 29, 2017. Therefore, the housing expense was not included in the November or December 2017 budgets (Exhibit A, p. 17 and 21). The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not submit verification of her housing expense until November 29, 2017.

Petitioner testified that she submitted verification of her housing expense in September 2017. Petitioner stated she provided rent receipts for her housing located on [REDACTED]. Petitioner stated she did not live on [REDACTED], but had a rental property in her name on [REDACTED] at which her sister lived. However, in the SER application Petitioner indicated that she lived at [REDACTED]. Due to Petitioner's inconsistent statements to the Department, in addition to the ECF, Petitioner's testimony that she provided the proof in September 2017 was not credible. Therefore, the Department acted in accordance with policy when it removed the rental expense from the November and December 2017 budgets.

Petitioner also contended that the Department did not properly calculate her income. According to the budget provided, the Department calculated Petitioner's unearned income to be \$1043 for November 2017 (Exhibit A, p. 15). The Department testified that consisted of Petitioner's RSDI, child support, and Family Independence Program (FIP) grant. The Department presented the State On-Line Query (SOLQ), which shows Petitioner received \$730 in RSDI benefits in November 2017 (Exhibit A, p. 23). The Department also presented the child support consolidated inquiry report which shows Petitioner was receiving \$40 per month in child support (Exhibit A, p. 25). Additionally, the Department presented Petitioner's Eligibility Summary, showing she received \$274 per month in FIP benefits (Exhibit A, p. 27). Petitioner's household income is \$1044. Although the Department calculated Petitioner's income to be \$1043, the error is

harmless, as it would not change Petitioner's FAP benefit amount. Additionally, there was evidence presented that Petitioner received a quarterly SSP payment of \$42, which would be budgeted as \$14 per month. The Department did not include that figure in the November 2017 budget. However, based on the figures provided, the Department properly calculated Petitioner's November 2017 payment.

According to the budget provided for December 2017, Petitioner's unearned income was calculated to be \$1018. The Department testified that Petitioner received \$730 in RSDI benefits in December 2017. The SOLQ shows a monthly credited amount of \$744 and a monthly benefit credited date of December 1, 2017 (Exhibit A, p. 22). However, the start date for that amount was not until January 1, 2018 (Exhibit A, p. 23). As such, the Department correctly used the \$730 figure for Petitioner's RSDI payment in December 2017. The Department removed the child support income. Petitioner stated she no longer receives child support. That testimony is corroborated by the child support consolidated inquiry which shows Petitioner did not receive a January 2018 child support payment. The Department also considered Petitioner's FIP grant. Additionally, the Department included the monthly SSP payment of \$14. Therefore, the Department properly calculated Petitioner's income for December 2017.

Petitioner did not allege any other issues with the remainder of the budget. Therefore, the remaining factors of the budget will not be addressed. As the Department established that it properly removed Petitioner's housing expense and calculated the household income correctly, the Department established that it acted in accordance with policy when it determined Petitioner's FAP benefit amounts for November and December 2017.

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 for November and December 2017. Accordingly, the Department's decisions are **AFFIRMED**.

EM/cg



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

Via Email:

MDHHS-Wayne-41-Hearings
M. Holden
D. Sweeney
BSC4-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

