



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 12, 2018
MAHS Docket No.: 17-015474
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Laura Gibson

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 8, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (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. Petitioner was an ongoing FAP recipient.
2. Petitioner's FAP eligibility was reviewed in connection with a September 12, 2017 redetermination Petitioner submitted to the Department.
3. When Petitioner's eligibility was reviewed, it was discovered that the Department had incorrectly been deducting a \$ [REDACTED] Medicare Part B expense when budgeting Petitioner's income.
4. The State of Michigan pays Petitioner's \$ [REDACTED] Medicare Part B expense.

5. Petitioner receives \$ [REDACTED] a month in Retirement, Survivors, and Disability Insurance (RSDI) benefits.
6. Petitioner's monthly rent is \$ [REDACTED]
7. Petitioner's FAP group consists of herself.
8. On October 12, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner that she had been approved for FAP benefits, with a monthly benefit amount of \$ [REDACTED] for November 1, 2017 through October 31, 2019.
9. On December 5, 2017, Petitioner requested a 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, the Department sent Petitioner a Notice of Case Action on October 12, 2017, informing Petitioner that she was approved for \$ [REDACTED] in monthly FAP benefits, effective November 1, 2017. Petitioner disputed the Department's benefit calculation.

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. With respect to RSDI benefits, the Department counts the gross benefit amount as unearned income. BEM 503 (July 2017), p. 31.

The Department retrieved the State Online Query (SOLQ) for Petitioner's RSDI benefits. Petitioner receives \$ [REDACTED] per month in RSDI payments. Petitioner confirmed this amount was correct. Petitioner has no other source of unearned income, and has no earned income. Thus, the Department correctly concluded that Petitioner's total countable income was \$869.

The deductions to income were also reviewed. There was evidence presented that the Petitioner is a Senior/Disabled/Veteran (SDV) group member. BEM 550 (January 2017), pp. 1-2. Thus, Petitioner 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 (August 2017), p. 1; BEM 556 (July 2013), p. 3. Expenses are only allowed if someone in the FAP group has the responsibility to pay for the service in money. BEM 554, p. 1. If the entire expense is directly paid by an agency or someone outside of the group, that expense is not allowed. BEM 554, p. 2.

There was no evidence presented of a dependent care expense, court ordered child support expense, or earned income that would entitle Petitioner to a deduction. Petitioner's FAP group of one entitled her to the standard deduction of \$160. RFT 255 (October 2017), p. 1.

The Department testified that prior to the September 2017 redetermination, Petitioner had erroneously been receiving a \$[REDACTED] medical deduction for a Medicare Part B premium. After retrieving the SOLQ report, it was discovered that the State of Michigan pays Petitioner's \$[REDACTED] Medicare Part B premium. Because Petitioner was not responsible for paying the \$[REDACTED] Medicare Part B premium, the Department properly did not allow that expense as a deduction. BEM 554, pp. 1-2.

In calculating the excess shelter deduction of \$[REDACTED] the Department testified that it considered Petitioner's monthly rent of \$[REDACTED] and a heat/utility standard of \$[REDACTED]. The heat/utility standard (h/u) standard covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in the cost of their monthly rent may still be eligible for the h/u standard if: they are billed for excess heat payments from their landlord; they have received a home heating credit in an amount greater than \$[REDACTED] for the applicable period; or they have received a Low-Income Home Energy Assistance Payment (LIHEAP) or a LIHEAP payment was made on their behalf in an amount greater than \$[REDACTED] for the applicable period. BEM 554, pp. 15-20.

At the hearing, Petitioner confirmed her monthly rent is \$[REDACTED]. The Department testified that, while Petitioner's heat is included in the cost of her rent, Petitioner had received a LIHEAP payment. Thus, Petitioner was entitled to the h/u standard of \$[REDACTED] resulting in total shelter expenses of \$[REDACTED]. The Department calculates the excess shelter deduction by taking half of Petitioner's adjusted gross income, and subtracting it from the total shelter amount. Using this calculation, the Department properly considered Petitioner's excess shelter deduction to be \$[REDACTED].

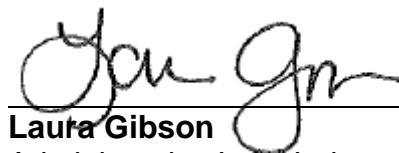
Upon further review, the Department properly reduced Petitioner's gross income of \$ [REDACTED] by the \$ [REDACTED] standard deduction, and the \$ [REDACTED] excess shelter deduction, resulting in a monthly net income of \$ [REDACTED]. Based on a net income of \$ [REDACTED] and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Petitioner's FAP group was eligible for monthly FAP benefits of \$ [REDACTED] BEM 556; RFT 260 (October 2017), p. 2.

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.

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

LG/kl



Laura Gibson
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



Petitioner via USPS

