



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.: 17-015703  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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. The Petitioner was self-represented and appeared with his father, [REDACTED], as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager, and [REDACTED], observing.

**ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate for November 2017 ongoing?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 13, 2017, Petitioner applied for FAP benefits.
2. Petitioner received \$ [REDACTED] in unemployment compensation benefits each week as of October 28, 2017 with five weeks of unemployment benefits remaining provided he met all other conditions of eligibility and qualification.
3. Petitioner had no other sources of income.
4. Petitioner was responsible for child support payments for his daughter.

5. Petitioner owns a home but after a court ordered eviction, he has no plans to return to it for purposes of habitation and is working to sell it.
6. Petitioner has a cell phone bill of \$ [REDACTED] per month.
7. On November 17, 2017, the Department issued a Notice of Case Action approving the Petitioner for monthly FAP benefits in the amount of \$ [REDACTED] in November 2017 and \$6.00 beginning December 2017 and ongoing.
8. On December 14, 2017, Petitioner filed a hearing request with the Department disputing the calculation of FAP benefits from November 2017 ongoing.

### **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 disputes the calculation of his FAP benefits from November 2017 ongoing.

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), p. 1. 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 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. Unemployment benefit income includes benefits paid by the Michigan Unemployment Insurance Agency or other comparable agencies

in other states and is counted as the gross amount paid by the UIA. BEM 503 (July 2017), p. 38.

Petitioner is uncertain how much he receives in unemployment benefits each week or month. The Department provided a copy of a Consolidated Income Inquiry, a report compiled by the Department of Treasury and the Internal Revenue Service, showing that Petitioner received \$ [REDACTED] in gross unemployment benefits each week as of October 28, 2017 with an additional five weeks of unemployment benefits remaining. Applying the 4.3 multiplier discussed above, Petitioner's standardized monthly income is \$ [REDACTED] BEM 505, pp. 7-9. Since the Petitioner has no other earned or unearned income, the Department properly calculated the Petitioner's total income.

After calculating income, deductions are calculated to determine the Petitioner's net income. No evidence was presented that the Petitioner's group includes a Senior, Disabled, or Veteran member. BEM 550, (January 2017), p. 1. Thus, the group is eligible for the following deductions to income:

- Standard deduction based on group size.
- Court ordered child support and arrearages paid to non-household members.
- Dependent care expense.
- Excess shelter.

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

In this case, the Department properly applied the standard deduction of \$ [REDACTED] for a group size of one. RFT 255 (October 2017), p. 1. Policy provides that a deduction may be included for child support expenses which includes the amount of court-ordered child support and arrearages paid by the household members to non-household member in the benefit month. BEM 554, p. 6. Petitioner is uncertain how much he pays in child support each month as it is directly withdrawn from his paycheck. He is also uncertain which of his children he pays child support for as of the date of the hearing. The Consolidated Income Inquiry shows that Petitioner paid child support for his daughter in the amount of \$ [REDACTED] in August 2017 which includes his court ordered payment and arrears. In September 2017, he paid \$ [REDACTED] plus services fees of \$ [REDACTED] for his daughter. In October and November 2017, Petitioner paid no child support for either of his children. The same conversion method is used in determining monthly expenses as that used for countable available income in BEM 505. BEM 554, p. 3. Child support income is averaged using the past three calendar months. BEM 505, p. 5. Therefore, child support expenses are also averaged over the last three months. Petitioner's standardized monthly child support payment is \$ [REDACTED] per month. The Department erred in its calculation of Petitioner's child support payment each month; however, because the error is in the Petitioner's favor, the Department's calculation of Petitioner's child support payment as \$ [REDACTED] will be used for purposes of this decision. No evidence was presented that Petitioner was eligible for a dependent care expense.

The excess shelter deduction considers a client's monthly shelter and utility expenses. BEM 554, p. 25. The Petitioner was not eligible for an excess shelter deduction. BEM 554, p. 25. Policy only allows for shelter costs to be included for unoccupied homes if it is temporarily unoccupied and the individual has an intent to return to the home. BEM 554, p. 25. Petitioner testified that he has no intent to return to the home because of the eviction order and that he is actively trying to sell it. Therefore, his mortgage expense associated with the home cannot be included as a shelter expense. BEM 554, p. 25. Since the Petitioner did not notify the Department of his responsibility for rental expenses, he is not eligible for the heat and utility standard deductions. The Department properly included a \$ [REDACTED] standard telephone deduction as the Petitioner has a \$ [REDACTED] monthly cell phone bill. BEM 554, p. 31; RFT 255 (October 2017), p. 1. Since the Petitioner has no other countable shelter related expenses, his total shelter expense is less than 50% of his adjusted gross income, and he is not eligible for an adjusted excess shelter deduction. Therefore, the Department properly calculated Petitioner's net income to be \$ [REDACTED] his \$ [REDACTED] gross monthly income less the \$ [REDACTED] standard deduction and \$ [REDACTED] monthly child support expense. If Petitioner were receiving a full month of benefits, he would be eligible for \$ [REDACTED] in FAP benefits. RFT 260 (October 2017), p. 10. Since Petitioner's November 2017 benefits were prorated based upon his application date and the prorated amount was less than \$ [REDACTED] his benefit was properly reduced to \$ [REDACTED] for November 2017. BEM 556 (July 2013), p. 6.

In the November 2017 Notice of Case Action, the Department notified Petitioner that he was eligible for \$ [REDACTED] in monthly FAP benefits for December 2017 ongoing. Department presented no evidence that Petitioner was not eligible for a full benefit rate in December 2017. Using the same calculations from November 2017 and based upon all of the evidence presented, the Department did not properly calculate his December 2017 FAP benefit rate. It should be noted here that as mentioned by the Department during the hearing and supported by the Consolidated Income Inquiry, Petitioner was only eligible for an additional five weeks of unemployment benefits as of the end of October 2017. Therefore, his unemployment benefit would have ended as of December 2, 2017 if he received each week of benefits as anticipated. Since the unemployment benefit likely ended in December 2017, his total monthly income would be drastically reduced. Likewise, Petitioner would have \$ [REDACTED] unemployment benefits in January 2018 and may be eligible for more benefits than he was eligible to receive in December 2017 if he had no other income.

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 was eligible for \$ [REDACTED] in FAP benefits for November 2017 but did not act in accordance with Department policy when it determined Petitioner was only eligible for \$ [REDACTED] in FAP benefits for December 2017 ongoing.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the Department's determination of \$ [REDACTED] in FAP benefits for Petitioner in November 2017 and **REVERSED IN PART** with respect to the Department's determination of \$ [REDACTED] in FAP benefits for Petitioner beginning December 2017 ongoing.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP benefit rate from December 2017 ongoing;
2. If Petitioner is eligible for additional FAP benefits after recalculation, issue any supplements for benefits not previously received in accordance with Department policy; and
3. Notify Petitioner of its decision in writing

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**Amanda M. T. Marler**  
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**

[REDACTED]

**Petitioner via USPS**

[REDACTED]