



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 16, 2018
MAHS Docket No.: 18-000259
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 February 12, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate the Petitioner December 2017 Food Assistance (FAP) benefits?

Did the Department properly close the Petitioner's Medical Assistance for failure to return the New Hire Client Notice?

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 was an ongoing recipient of FAP and MA benefits.
2. On October 17, 2017, the Department sent the Petitioner a New Hire Client Notice regarding [REDACTED] and requested it be returned on October 27, 2017. Exhibit F.

3. On November 21, 2017, the Department received the New Hire Client Notice. Exhibit B
4. November 7, 2017, the Department sent a Notice of Case Action closing the Petitioner's FAP benefits effective December 1, 2017 for failure to verify, due to failure to return the New Hire Client Notice. Exhibit C.
5. On December 21, 2017, the Department issued a Notice of Case Action which reinstated the Petitioner's FAP benefits effective December 1, 2017 in the amount of [REDACTED]. Exhibit G
6. On November 8, 2017, the Department sent a Health Care Coverage Determination Notice closing the Petitioner MA effective December 1, 2017 for failure to verify information, due to failure to return the New Hire Client Notice. The Petitioner's MA case was reinstated without lapse in coverage. Exhibit D
7. On November 1, 2017, the Department sent the Petitioner a Semi Annual Contact report which was required to be completed on December 1, 2017. The Semi Annual was returned on November 14, 2017. Exhibit E
8. The Petitioner's FAP group has [REDACTED] members, the Petitioner pays rent of \$850 and received child support of [REDACTED] for both children in the group and unemployment benefits in the amount of [REDACTED] monthly based upon weekly UCB benefits of [REDACTED] Exhibit H, Exhibit I and Exhibit K.
9. On January 2, 2018, the Petitioner requested a timely hearing protesting the closure of her FAP and MA case.

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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the

collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department sent the Petitioner a New Hire Client Notice on October 17, 2017 regarding her employment with [REDACTED]. The New Hire information and notice information was to be returned to the Department by October 27, 2017 or her benefits would close. Exhibit F. The Petitioner returned the Notice to the Department late, on November 21, 2017 at which point both her FAP benefits and MA benefits were to close effective December 1, 2017. Although the Petitioner claimed that she had filed the form earlier, the Department's electronic case file indicated that the only document it received was the one on November 21, 2017. Both the Food Assistance and Medical Assistance case were properly reinstated based upon the return of the New Hire Client Notice date. The Food Assistance was reinstated effective December 1, 2017 and was reduced due to the Department being advised in a Semi Annual Contact Report that the Petitioner was receiving unemployment benefits. Once the unemployment benefits were included in the FAP budget as unearned income, the Petitioner's benefits were reduced as no income, other than child support was previously reported and budgeted as income in Petitioner's food assistance budget. See Exhibit K.

The Petitioner's FAP budget, the FAP Edg Net Income Results and Excess Shelter calculation were reviewed at the hearing and determined to be correct. The Petitioner's child support was correctly calculated based upon the amounts received in the last three months and the unemployment unearned income was also included. The Petitioner has a FAP group of 3 persons and pays rent of [REDACTED] a month and received a Heat and utility allowance of [REDACTED]. Exhibit K, pps. 28-30. As explained at the hearing, the Food Assistance benefits were reduced because the income from unemployment of [REDACTED] was a significant increase in income from the prior budget in which Petitioner's income was only [REDACTED] in child support. The amounts were confirmed as correct at the hearing by Petitioner as regards rent, UCB of [REDACTED] weekly, utility, group size and child support received.

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 three members and is not a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), pp. 1-2. Groups are eligible for the following deductions to income, except for Medical deductions which apply only to FAP groups with an SDV member:

- 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 did not have any earned income. Therefore, the budget properly did not include any deduction for earned income, or deductions for dependent care expenses, child support and the medical expenses. Based on the confirmed three person group size, the Department properly applied the [REDACTED] standard deduction to Petitioner's income. RFT 255 (October 2017), p. 1. The Department also correctly determined unearned income from unemployment benefits and converted the income to account for months where more than 4 weeks of benefits are received. The 2.15 factor is applied as a conversion to take into account fluctuations due to the number of scheduled pays in a month throughout the year. See BEM 505 (January 2017), p. 8 and RFT 250.

The Department used the biweekly UCB amount of [REDACTED] and multiplied that by 2.15 to get the monthly UCB amount of [REDACTED]. ([REDACTED] x 2.15 = \$[REDACTED]).

In calculating Petitioner's excess shelter deduction, the Department must determine the eligible monthly shelter costs. The Department properly considered Petitioner's [REDACTED] paid in rent and [REDACTED] 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 [REDACTED]. 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 \$[REDACTED] which is the maximum shelter allowance amount for FAP groups without an SDV member. BEM 556, pp. 4-5; RFT 255, p. 1.

In determining monthly net income of [REDACTED] 50% of the adjusted gross income of [REDACTED] is deducted from the shelter expenses of [REDACTED] which is adjusted to [REDACTED] as this is the maximum excess shelter deduction. [REDACTED]. The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income. (\$[REDACTED]). Based on net income of [REDACTED] and a FAP group size of [REDACTED] members, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of [REDACTED]. BEM 556; RFT 260 (October 2016), p. 8. See Exhibit 3.

As the Medical Assistance case was reinstated without loss of coverage there is no issue which requires further review by the undersigned.

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 properly reinstated the FAP benefits and MA benefits effective December 1, 2017 and properly calculated and reduced the its burden of showing that it acted in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/tm



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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
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