



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 6, 2018
MAHS Docket No.: 17-016837
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 February 1, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist and Hearing Coordinator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits beginning December 1, 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. On October 4, 2017, the Department issued a Redetermination to be filled out and returned by the Petitioner.
2. On November 13, 2017, Petitioner signed and returned the completed Redetermination to the Department indicating that there were no changes to his housing expense and listing his Retirement, Survivors, and Disability Insurance (RSDI) benefit as \$ [REDACTED] (Exhibit A, pp. 9-16).
3. On November 14, 2017, the Department issued a Verification Checklist (VCL) requesting proof of his property taxes. (Exhibit A, p. 8)

4. On November 17, 2017, Petitioner submitted proof of his property taxes as well as his utility bills as requested by his caseworker during a telephone conversation.
5. On November 21, 2017, the Department issued a Notice of Case Action decreasing the Petitioner's FAP benefit rate to \$ [REDACTED] per month beginning December 2017 ongoing.
6. On December 20, 2017, Petitioner submitted a hearing request disputing the Department's calculation of his FAP benefit rate.

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 reduced Petitioner's FAP benefit rate from \$ [REDACTED] to \$ [REDACTED] based upon the removal of his previously listed housing expense and addition of his property taxes. During the hearing, the FAP budget calculation including the excess shelter deduction calculation was reviewed.

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.

In reviewing the budget submitted by the Department for hearing and the Notice of Case Action, the Department did not properly consider Petitioner's RSDI benefit. The budget and Notice of Case Action list Petitioner's unearned income as \$ [REDACTED] which was

Petitioner's RSDI rate as of December 1, 2016. The State On-line Query (SOLQ) lists Petitioner's RSDI benefit as \$ [REDACTED] effective December 1, 2017 but also indicates that he has a Medicare Part B premium of \$ [REDACTED] and only receives a net RSDI payment of \$ [REDACTED] (Exhibit A, pp. 17-18) Petitioner testified that not only was the Medicare Part B premium deducted from his RSDI benefit, but so was his child support payment administered through the Third Circuit Court. While failing to include the updated RSDI benefit under unearned income was an error by the Department, the error is in the Petitioner's favor and will continue to be used for the remainder of this decision.

It should be noted that neither the budget nor the Notice of Case Action include a child support expense for Petitioner. Child support and child support arrearage expenses are deducted from income. BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3. The record remains unclear as to whether the Petitioner ever notified the Department of the child support expense. The client is responsible for reporting changes in child support expenses paid. BAM 105 (October 2017), p. 12. If the Petitioner never notified the Department of the child support expense, then the Department's failure to include the expense was appropriate as the Department cannot act on what it does not know.

Turning to the remainder of the deductions from income, evidence was presented that Petitioner is a disabled FAP recipient. BEM 550 (January 2017). Thus, he is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Standard deduction based on group size.
- Medical deduction.

BEM 554, p. 1; BEM 556, p. 3.

Petitioner has no dependent care expense, agrees with the medical expense as listed on the budget, and the Department properly applied the standard deduction of \$ [REDACTED] RFT 255 (October 2017), p. 1. The only remaining expense is the excess shelter deduction.

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, pp. 12-13. The Department is required to verify shelter expenses at application and when a change is reported. BEM 554, p. 13. The shelter verification policy does not require verification of housing expenses at redetermination unless there is a change. In this case, the Petitioner reported no change and there was no actual change in his housing expenses. Therefore, Petitioner had no obligation to verify his housing expense in November 2017.

Finally, during the hearing, Petitioner testified that his caseworker never asked him about his mortgage which is why he never provided proof of his mortgage. She had only asked him whether he owned his home to which he replied that he did. From this point forward, the Petitioner testified that his caseworker was only concerned with verification of his taxes. Notably, the November 14, 2017, VCL only requested proof of property taxes and nothing else. However, since the Petitioner completed a Redetermination, reported no changes in his housing expenses, and there were in fact no changes in his housing expenses, he should not have been required to provide proof of his housing expenses.

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 did not act in accordance with Department policy when it recalculated Petitioner's FAP budget excluding his previously established housing expense.

DECISION AND ORDER

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

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. Reprocess and recalculate Petitioner's FAP benefits from December 2017 ongoing;
2. If Petitioner is eligible for a FAP supplement, issue a supplement in the amount he is eligible to receive but did not in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



AM/

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

DHHS

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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