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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: March 8, 2018
MAHS Docket No.: 18-000255
Agency No.: ██████████
Petitioner: ██████████

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 March 7, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Hearing Facilitator. ██████████ ██████████, a ██████████ translator appeared for the hearing.

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 December 1, 2017, Petitioner submitted an application for FAP benefits.
2. On December 15, 2017, Department issued a Verification Checklist (VCL) with proofs due back by December 15, 2017, for his rent, checking account, non-heat electrical expense, and heat expense.
3. Department received several proofs from Petitioner but did not receive proof of his rental expense.
4. On December 28, 2017, Department issued a Notice of Case Action indicating Petitioner was approved for FAP benefits for the period from December 1, 2017, through November 30, 2019, in the amount of \$44.00 per month.

5. On January 8, 2018, Petitioner submitted a hearing request disputing the 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, Petitioner disputes the calculation of his FAP benefit rate. The Department testified that Petitioner's benefit rate was calculated without a rental expense because Petitioner did not return proof of the expense on a timely basis. Verifications of expenses are required at application, redetermination, and if there is a reported change. BAM 130 (April 2017), p. 1. Petitioner had recently submitted a new application; therefore, the Department properly requested verification of his rental expense. The Department is required to provide 10 calendar days to the client in order to provide the requested verifications. BAM 130, p. 7. Petitioner was provided 10 days from the date of mailing of the VCL to provide the requested verifications. The Department is required to process FAP applications and provide benefits to approved individuals within 30 days of the application. BAM 115 (October 2017), p. 17. Negative Action notices are sent when the client refuses to provide verification or when the time period has lapsed without a reasonable effort made by the client. BAM 130, p. 7. Since the Petitioner provided some verifications but not all, the Department had to make a decision without the rental expense and issued the Notice of Case Action on December 28, 2017, 13 days after the proofs were due.

In support of its case, the Department presented the Notice of Case Action, a gross income test, and the excess shelter deduction budgets. These items were reviewed to determine if the Department properly calculated Petitioner's benefit rate.

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 (January 2016), p. 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 (April 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, p. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 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.

Petitioner agrees that he receives unearned income of \$ [REDACTED] per month.

After the income is calculated, the Department considers a set of deductible expenses for purposes of FAP budgeting. Petitioner is 67 years old and qualifies as a Senior, Disabled, or Disabled Veteran (SDV) for purposes of FAP calculation. BEM 550 (January 2017), p. 1. 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.

The Department properly afforded Petitioner the Standard Deduction of \$160.00. RFT 255 (October 2017), p. 1. Petitioner also agrees that he has medical expenses, but believes the expenses are greater than the amount budgeted by the Department. Medical expenses greater than \$ [REDACTED] are deductible from income when creating a FAP budget for Seniors, Disabled, and Disabled Veterans (SDV). BEM 554, p. 8. While the Petitioner testified that he had provided medical documentation to support medical expenses greater than \$ [REDACTED] he could not identify the exact amount of the expense and provided no documentation supporting his submission of greater medical expense to the Department for the hearing. Therefore, the Department's inclusion of the \$ [REDACTED] medical expense was appropriate.

No evidence was presented that Petitioner had a Dependent Care, Child Support, or utility expense.

Finally, FAP groups are allowed to deduct a shelter expense when one is billed. BEM 554, p. 13. Late fees and penalties are not allowed as part of the shelter expense. Housing expenses include rent and mortgages, among other things, and it must be a continuing expense. BEM 554, p. 13. As discussed above since the Petitioner did not return proof of the housing expense; none was budgeted for him. After reviewing the

budgets and Notice of Case Action, the Department properly calculated Petitioner's FAP benefit rate of \$ [REDACTED] based upon \$493.00 in net income. RFT 260 (October 2017), p. 7.

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 benefit rate.

DECISION AND ORDER

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



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]
[REDACTED]
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