



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 29, 2018
MAHS Docket No.: 18-000766
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 March 22, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate the Petitioner Food Assistance (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. At the hearing, the Petitioner withdrew on the record his hearing request dated January 8, 2018 regarding the denial of Medical Assistance. The Department denied the case in error and has reinstated the Medical Assistance for HMP with no lapse in coverage. Exhibit A.
2. The Petitioner is an ongoing recipient of FAP benefits in the amount of \$15.00 monthly. Exhibit B.
3. The Department issued a Notice of Case Action on October 18, 2017 approving the Petitioner for FAP benefits for November 1, 2017 through September 30, 2018 ongoing for [REDACTED] monthly. Exhibit B.

4. The Petitioner receives unearned income of \$ [REDACTED] monthly which was confirmed by Petitioner at the hearing. The Petitioner is a FAP group consisting of one member. The Petitioner has housing costs of [REDACTED] monthly and also pays for heat/electricity and is entitled to a utility allowance of [REDACTED] applied and included as a housing expense. Exhibit B and 8.
5. The Petitioner requested a timely hearing on January 8, 2018 protesting the Department's actions.

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 Petitioner requested a hearing to determine if the Department correctly calculated his FAP benefits. The Department presented the Petitioner's FAP budget at the hearing which was reviewed at the hearing. Exhibit 8. Based upon the budget presented the Department determined that Petitioner was eligible for [REDACTED] in FAP benefits monthly.

The following facts were confirmed as correct by Petitioner at the hearing. The Petitioner receives [REDACTED] in disability income from [REDACTED] from the [REDACTED] [REDACTED] Exhibit 10. The Petitioner is not deemed disabled by the [REDACTED]. However, for purposes of his FAP benefits he does receive [REDACTED] disability benefits. The unearned income accounts for the Petitioner's total income. The Petitioner confirmed rent in the amount of [REDACTED] monthly and pays for heat and electricity so is eligible for a utility allowance of [REDACTED]. See Exhibits 8. The Petitioner is not considered disabled for purposes of calculating FAP benefits which defines a person who is considered as disabled as a person who

A person who receives one of the following:

- A federal, state or local public disability retirement pension **and** the disability is considered permanent under the Social Security Act.

- Medicaid program which requires a disability determination by Disability Determination Service (DDS) or Social Security Administration.
- Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria.

A person who receives or has been certified and awaiting their initial payment for one of the following:

- Social Security disability or blindness benefits.
- Supplemental Security Income (SSI), based on disability or blindness, **even if** based on presumptive eligibility. BEM 550 (January 1, 2017), pps. 1-2.

Also included in the definition of disabled is a veteran of the armed services with a service or non-service connected disability rated or paid as total by the ██████████ BEM 550, p. 2. A review of the verification from the ██████████ indicates that Petitioner's disability combined service-connected evaluation is 10% and thus is not a total disability due to service or non-service. Exhibit 10, p. 28. Thus, for purposes of calculating the Petitioner's FAP benefits he is not deemed a disabled individual.

The ██████████ is received due to a disability, but the Petitioner did not testify as to whether it was based on public disability retirement and lists ██████████ as the employer which is a non-public employer. No disability based on ██████████ disability was demonstrated. The Petitioner receives HMP and does not receive medical assistance from the Department based upon his disability.

At the hearing, the Department presented the FAP EDG Net Income Results Budget for November 2017, which was reviewed to determine if the Department properly concluded that Petitioner was eligible to receive ██████████ in monthly FAP benefits.

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 as well as unearned income received. BEM 503 (July 2016), pp. 31-32.

The Department concluded that Petitioner had unearned income of ██████████ which was not disputed by the Petitioner. Therefore, the Department properly calculated Petitioner's gross unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of one member and is entitled to a deduction from his income of \$ ██████████. The Department also applied housing expenses of rent of ██████████ and a utility allowance of ██████████. There was no evidence that the Petitioner had dependent care expenses or

paid child support. Based on his confirmed one-person group size, the Department properly applied the \$ [REDACTED] standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction, The Department determines the eligible monthly shelter costs. The Department properly considered Claimant's [REDACTED] monthly housing expense for rent and [REDACTED] heat and utility allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The total shelter cost was properly determined to be [REDACTED]. When one half of the adjusted gross income of [REDACTED] is deducted from the total shelter cost the result is the excess shelter deduction which is [REDACTED]. [REDACTED] A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Claimant was eligible for an excess shelter deduction of [REDACTED] BEM 556, pp. 4-5; RFT 255, p. 1. Exhibit 8, p. 9.

In determining monthly net income of [REDACTED] the shelter expense of \$ [REDACTED] was deducted from the adjusted gross income of [REDACTED]. Based on net income of [REDACTED] and a FAP group size of one member, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of [REDACTED]. RFT 260 (October 2016), p. 15. See Exhibit 8.

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 Claimant's FAP benefits.

DECISION AND ORDER

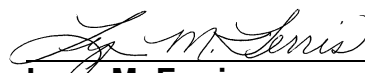
Accordingly, the Department's decision is **AFFIRMED**.

The Petitioner withdrew his hearing request dated January 8, 2018 for Medical Assistance on the record as the Department had ordered reinstatement of his HMP benefits with no lapse in coverage.

Accordingly, the Petitioner's hearing request dated January 8, 2018 is hereby **DISMISSED**.

IT IS SO ORDERED.

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]
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