



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 6, 2018
MAHS Docket No.: 18-000869
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 1, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate and decrease the Petitioner Food Assistance (FAP)?

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 is an ongoing recipient of FAP benefits and currently receives [REDACTED]. The Petitioner's FAP group consists of 3 members.
2. The Petitioner completed a redetermination and the Department determined that there was additional unearned income from child support for Child Michael in the amount of [REDACTED].
3. The Department issued a Notice of Case Action on December 22, 2017 which closed her FAP case in error and the error was corrected. Exhibit 2 and Exhibit 13.

4. The Petitioner confirmed the following income was received by the group, RSDI and SSI [REDACTED] and [REDACTED], (Petitioner); SSI for Child [REDACTED]; Child Support for [REDACTED] and Child Support for [REDACTED] for [REDACTED] and [REDACTED] a month received by Petitioner and her child for State Supplement SSI for [REDACTED] total per month. Exhibit 6 and Exhibit 7. The unearned income totals [REDACTED] which was the unearned income used to calculate the FAP benefits.
5. At the hearing, the Department found an error in the Shelter housing expense. The Department's excess shelter calculation used [REDACTED] for the housing expense but the actual verified housing expense is [REDACTED] consisting of home rent [REDACTED] and base rent [REDACTED] Exhibit 12 and Exhibit 5.
6. The Petitioner requested a timely hearing on January 25, 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 Department decreased the Petitioner's FAP benefits to [REDACTED] monthly due to a change in unearned income that effected the FAP benefits causing them to be decreased. The change was due to the addition of unearned income of [REDACTED] for child support not previously included as income in the FAP budget. The other issue which was presented by the Department was an error when computing the excess shelter deduction. The Department used the old housing expense of [REDACTED], instead of [REDACTED] as verified by the Petitioner. The Petitioner also verified that the income of \$[REDACTED] determined by the Department to be the group gross unearned income was correct. See Finding of Fact 4. The Group is a household size of three, the Petitioner and her two minor children.

At the hearing the Department reviewed the FAP Edg Net Income Results (budget) and the Excess Shelter Calculation.

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 or SSI from Social Security income due to disability. BEM 503 (July 2016), pp. 31-32.

The Department concluded that Petitioner had unearned income of [REDACTED] which was not disputed by the Petitioner after the income from each category was considered and reviewed. The Department presented a SOLQ in support of its testimony for determining income for Petitioner and her child. Petitioner confirmed that Petitioner receives these amounts as does her child and that they were correct. Exhibit 7. 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 members and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- 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 and there was no evidence presented that she had any dependent care. The child support income was reviewed and was correct. The Petitioner did not present any out of pocket medical expense, so no medical expenses were included in the FAP budget calculation. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, and medical expenses. Based on Petitioner's confirmed three persons group size, the Department properly applied the [REDACTED] standard deduction. RFT 255 (October 2017), p. 1.

In calculating Petitioner's excess shelter deduction, the Department determines the eligible monthly shelter costs. The Department included the old shelter cost of [REDACTED] instead of the correct current amount of [REDACTED] and also included a [REDACTED] heat and utility allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The new shelter expense is [REDACTED], [REDACTED]). A review of the excess shelter deduction budget and Department policy shows that the Department incorrectly determined that Petitioner was eligible for an excess shelter deduction of [REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1. The excess shelter deduction must be recalculated to account for the increase in the shelter expense.

In determining monthly net income of 50% of the adjusted gross income of [REDACTED] (50% of \$ [REDACTED] is deducted from the shelter expenses. The excess shelter deduction is then deducted from adjusted gross income to determine net monthly income. Based on the failure to correctly determine the shelter expense it is determined that the Department did not act in accordance with Department policy when it calculated the excess shelter deduction.

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 did not act in accordance with Department policy when it determined the Petitioner's FAP benefits for January 2018 and the excess shelter deduction.

DECISION AND ORDER

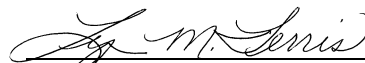
Accordingly, the Department's decision is

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. The Department shall recalculate the Petitioner FAP benefits to include the correct shelter expense for January 2018 ongoing.
2. If the recalculation results in an increase in FAP benefits, the Department shall issue a FAP supplement for benefits the Petitioner is otherwise entitled to receive.

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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