



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 13, 2018
MAHS Docket No.: 18-001133
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 March 7, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with her witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate beginning December 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. In October 2017, Petitioner returned a completed Redetermination form which had been required for her Medical Assistance (MA) program benefits noting some changes in her income as well as medical and rental expenses.
2. On November 1, 2017, the Department issued a Notice of Case Action regarding Petitioner's FAP benefits which decreased to \$ [REDACTED] per month as a result of the changes in her income, medical, and rental expenses.
3. On January 25, 2018, Petitioner submitted her hearing request to the Department disputing the reduction in her 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's FAP benefit rate was reduced after reported changes at the time of her MA Redetermination. While implementing the changes, the Department discovered that Petitioner was mistakenly receiving a double deduction of her medical expenses. In 2012, there was a reported medical expense of \$ [REDACTED]. In 2016, the same medical expense was reported. During the processing of the 2016 expenses, the medical expense was mistakenly added to Petitioner's expenses again. When the error was discovered after the October 2017 Redetermination, the error and old expense was removed; and the current medical expense of \$ [REDACTED] was added. In addition, a change was reported in Petitioner's rental expense from \$ [REDACTED] to \$ [REDACTED] as Petitioner had moved into a senior living facility. Finally, the parties agree that Petitioner's Retirement, Survivors, and Disability Insurance (RSDI) benefit had changed from \$ [REDACTED] to \$ [REDACTED] with the first payment as of January 2018.

In support of its case, the Department submitted FAP Net Income budgets from October 2017 before the changes took effect, and January 2018 when the changes were implemented as well as the Notice of Case Action with the itemized list of considered incomes and expenses. These documents were reviewed to determine if the Department properly calculated Petitioner's new FAP benefit rate beginning December 2017.

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. 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's unearned income was properly considered on each budget and the Notice of Case Action as agreed upon by the Petitioner and Department and shown by the State Online Query from October 2017 and February 2018.

After the income was calculated, deductions were considered. Since Petitioner is an RSDI recipient, she qualifies as a Senior, Disabled, or Disabled Veteran (SDV) individual and receives additional deductions and considerations. 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 afforded Petitioner a \$ [REDACTED] Standard Deduction in accordance with policy. RFT 255 (October 2017), p. 1. Medical expenses greater than \$ [REDACTED] are considered for SDV individuals. BEM 554, p. 1. The Department also properly considered Petitioner's new medical premium of \$ [REDACTED] as an expense totaling \$ [REDACTED]. No evidence was presented that Petitioner had any dependent care or child support expenses.

Turning to the Petitioner's excess shelter deduction, Petitioner provided the Department with proof of a rental expense of \$ [REDACTED] and a pet fee of \$ [REDACTED]. The Department did not become aware that the additional \$ [REDACTED] was for a pet fee and testified at the hearing that the pet expense should have been excluded from consideration of Petitioner's rental expense. Housing expenses include rent and mortgages among other things, and it must be a continuing expense. BEM 554, p. 13. Any additional expenses for things like carports and pets or optional charges are not allowed in consideration of the FAP budget. *Id.* Therefore, the Department's inclusion of the \$ [REDACTED] pet expense was in error. Finally, the Department properly provided the Petitioner with the Heat and Utility Standard Deduction of \$ [REDACTED]. RFT 255, p. 1. In calculating the entire budget for December 2017, while the Department erred in including the \$ [REDACTED] pet fee, the additional \$ [REDACTED] did not affect Petitioner's benefit rate; and it was a harmless error. Even after removal of the \$ [REDACTED] fee from the rental expense, Petitioner was still eligible for \$ [REDACTED] in FAP benefits. RFT 260 (October 2017), p. 9.

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 of \$[REDACTED] beginning December 2017.

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]
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