



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 8, 2018
MAHS Docket No.: 18-001272
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, an in-person hearing was held on March 8, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly decrease the Petitioner's 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 FAP recipient. The Petitioner has a FAP group of one member.
2. The Department issued a Notice of Case Action on December 9, 2017 decreasing the Petitioner's FAP benefits to \$ [REDACTED] per month.
3. The Petitioner's SSI received from the Social Security Administration increased to [REDACTED]0 monthly on January 1, 2018. The Petitioner also receives unearned income of [REDACTED] monthly from the State of Michigan as part of the State Quarterly Supplement to SSI. The Petitioner total monthly income is [REDACTED] as of January 1, 2018. Exhibits A and B.

4. The Petitioner paid rent at the time her January 2018 benefits were calculated in the amount of [REDACTED] a month and paid for gas and had an utility allowance expense applied to her housing cost of [REDACTED] monthly. Exhibit D.
5. The Petitioner requested a timely hearing on January 29, 2018 protesting the Department's action.

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 due to an increase in SSI of [REDACTED] to a new monthly SSI amount of [REDACTED]. The Petitioner also verified that the income of [REDACTED] as determined by the Department to be the gross unearned income was correct. See Finding of Fact 3. The Group is a household size of one person.

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 that it had increased in January 2018. 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 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 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 one-person 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 then shelter cost of [REDACTED] for rent and included a [REDACTED] heat and utility allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The shelter expense total is [REDACTED] = [REDACTED]. A review of the excess shelter deduction budget and Department policy shows that the Department correctly 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 of [REDACTED] results when 50% of Petitioner's adjusted Gross income or [REDACTED] is deducted from her shelter expenses. [REDACTED]).

In determining monthly net income of [REDACTED] the excess shelter deduction is deducted from adjusted gross income to determine net monthly income. [REDACTED] Based on the review of the evidence presented at the hearing and the calculations which were reviewed it is determined that the Department correctly determined the Petitioner FAP benefit amount of \$129.00. Exhibits C and D.

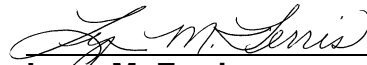
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did act in accordance with Department policy when it determined the Petitioner's FAP benefits for January 2018 and the excess shelter deduction.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

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]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]