



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 21, 2018
MAHS Docket No.: 18-001417
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 21, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefits beginning February 2018?

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 4, 2017, the Department issued a Redetermination to Petitioner due back by January 3, 2018.
2. On January 2, 2018, Petitioner returned the completed Redetermination to the Department.
3. On January 4, 2018, a telephone interview was held.
4. On January 24, 2018, the Department issued a Notice of Case Action reducing Petitioner's FAP benefits from \$ [REDACTED] to \$ [REDACTED] effective February 1, 2018, based upon the information from the interview and Redetermination.

5. On February 2, 2018, Petitioner submitted a hearing request disputing the Department's calculation of her FAP benefits.

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 reduced Petitioner's FAP benefit rate to \$ [REDACTED] from \$ [REDACTED] because of a change in income, change in rental expense, removal of the heat and utility standard, as well as the addition of water and telephone expenses. Budgets were not presented in the hearing because the Petitioner never received a hearing packet from the Department, and the Hearing Facilitator did not have a copy of the packet with her to be able to answer questions or share the packet with Petitioner.

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.

In this case, the parties agree that Petitioner's Retirement, Survivors, and Disability Insurance (RSDI) benefit was increased from \$ [REDACTED] per month to \$ [REDACTED] per month in January 2018. Since budgets were not presented in the hearing, it is unclear if the Department properly included Petitioner's RSDI benefit.

After income is considered, the Department is required to consider certain expenses of Petitioner in order to determine her net income. Since Petitioner is a senior, aged [REDACTED]

she is considered a Senior, Disabled, or Disabled Veteran (SDV) group member and is eligible for the following deductions from income:

Thus, the group 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 550 (January 2017); BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3.

In this case, the Department was uncertain at the hearing as to whether Petitioner was afforded a medical expense deduction during the recalculation of benefits in January 2018. Petitioner receives RSDI; therefore, she is not eligible for the 20% earned income deduction. The dependent care, child support, and standard deductions were not discussed at the hearing. Again, it is unclear if the Department properly budgeted these items because budgets were not presented for the hearing.

Turning to the excess shelter deduction, the parties agree that Petitioner's rental expense as of January 2018 was \$ [REDACTED]. This rental expense does not include heat and utilities. Petitioner pays a separate utility expense. However, the Department removed her Heat and Utility Standard deduction from her FAP budget. The Hearing Facilitator was uncertain at the hearing why it was removed. After removal of the Heat and Utility Standard, the Hearing Facilitator then testified that the Water and Telephone Standard deductions were budgeted for Petitioner. However, Petitioner testified that she does not pay a separate water bill and has never advised the Department of a water bill. Given the considerable discrepancies in testimony and no budget being presented, it is not clear that the Department properly calculated Petitioner's 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate effective February 1, 2018.

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. Recalculate Petitioner's FAP budget and benefit rate from February 1, 2018, ongoing;
2. If Petitioner is eligible for benefits, and benefits greater than what were previously issued, issue supplements to Petitioner from February 2018, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



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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