



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.: 18-001694  
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]

**ISSUE**

Did the Department properly calculate the Petitioner's FAP benefits after processing the redetermination?

**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 completed a redetermination.
2. The Department issued a Notice of Case Action on January 29, 2018 closing the Petitioner's FAP benefits due to excess income effective January 1, 2018. Exhibit 1.
3. The Department calculated the FAP groups income (earned) to be [REDACTED] and determined the housing cost for insurance and property taxes to be [REDACTED]. The Petitioner has a FAP group of [REDACTED] persons. Exhibit 1.

4. The Petitioner provided pay stubs to the Department for November 2017 as follows: \$ [REDACTED] for November 10, 2017; [REDACTED] or November 17, 2017; and [REDACTED] for November 24, 2017; and [REDACTED] for December 1, 2017. Exhibit 2.
5. The Petitioner requested a timely hearing on February 7, 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 closed the Petitioner's FAP benefits after it determined that the Petitioner's net income after calculating the FAP benefits of [REDACTED] exceeded the net income limit of [REDACTED] for Petitioner group size of [REDACTED]. Exhibit 4.

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 social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of three members BEM 550 (February 2016), pp. 1-2. Groups 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.

The FAP budget was reviewed at the hearing and the following determinations by the Department were determined to be correct. The Department correctly used the Petitioner's pay stubs provided and determined the average weekly income to be [REDACTED] which must be converted to a standard monthly amount which requires the multiplying the weekly amount by 4.3 which results in monthly gross income [REDACTED]. (4 pay stubs total [REDACTED] 4 checks = [REDACTED]. The earned income is then reduced by 20% for the earned income deduction which was correctly determined to be [REDACTED] [REDACTED] earned income deduction). Thus, the Post earned income of [REDACTED] is correct. The Department also correctly deducted the standard deduction amount for a FAP group of 7 of [REDACTED] RFT 255 (October 2016, p. 1. Once the standard deduction amount is deducted the adjusted gross income of [REDACTED] is determined and is correct. The Department's calculation of the Petitioner housing expenses was not correct as the expense were not updated.

In this case, the Department confirmed at the hearing that the Petitioner advised the Department in the redetermination that he paid taxes and insurance, but the Department never updated these items which are the Petitioner's housing expenses. The Department used [REDACTED] which had not been updated since 2016. BEM 554 provides:

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, for example, furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed. BEM 554 (August 2017), p. 13-14.

The Department must verify these expense by a copy of the tax bill and a copy of the insurance invoice. BEM 554, p. 15.

The Department is required to at redetermination to The Michigan Department of Health & Human Services (MDHHS) must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. BAM 210 (January 2018), p. 1

- The Department also must do the following when conducting and completing the redetermination: Obtain a complete redetermination/review packet from the client.
- Compare the redetermination/review document to the existing MDHHS-1171 and program specific supplement form(s) or previous DHS-1010 and other case data.
  - Reconcile any discrepancies and ensure anything omitted is completed.
- Review the verifications and reconcile discrepancies.

Because the Department did not present evidence that the housing expenses were verified and redetermined because they needed updating, the Department must do so and complete a new FAP budget based upon updated expenses. This may or may not result in eligibility for the Petitioner, however the review is determined necessary based upon the above cited policy and concurrence by the Department at the hearing.

At the hearing the Department conceded that the Department did not update or seek verification of the taxes and insurance and testified that there was no record that established that an interview was conducted at redetermination. The interview is required by Department policy. Based upon this circumstance it is determined that the correct housing expenses associated with the property taxes and insurance must be determined and verified by the Department and the Department must recalculate the Petitioner's FAP to determine if the closure was correct.

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 closed the Petitioner's FAP benefits after redetermination without seeking updated housing expenses for taxes and insurance.

### **DECISION AND ORDER**

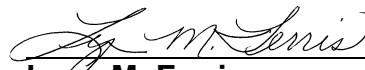
Accordingly, the Department's decision is

**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 reinstate the Petitioner's FAP case as of the date of closure and seek verification of housing costs for homeowners' insurance and annual property taxes and process the case accordingly.
2. If after review the Department determines that the Petitioner is eligible for FAP benefits, it shall issue a FAP supplement to Petitioner for FAP benefits the Petitioner is otherwise entitled to receive in accordance with Department policy.

LF/tm



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**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]  
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