



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 26, 2018  
MAHS Docket No.: 18-001769  
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 22, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

**ISSUE**

1. Did the Department properly determine Petitioner's and his wife's eligibility for Food Assistance Program (FAP) benefits?
2. Did the Department properly calculate Petitioner's FAP group benefit rate?

**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 6, 2017, Petitioner submitted an Application for FAP and Medical Assistance (MA) benefits.
2. On December 30, 2017, the Department issued a Notice of Case Action holding that Petitioner's daughter was eligible for FAP benefits in the amount of \$ [REDACTED] per month beginning January 2018; there was no indication of a determination of eligibility for Petitioner and his wife on the Notice of Case Action.

3. On February 7, 2018, Petitioner submitted a hearing request disputing the Department's determination of 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, Petitioner's daughter was granted FAP benefits, but Petitioner and his wife were not. While the Notice of Case Action does not explicitly state the reasoning why Petitioner and his wife were not granted FAP benefits, they were considered as noted by the household size of three on the Notice of Case Action. The Department also elaborated at the hearing as to the reason for their ineligibility. In the future, the Department should ensure that the Notice of Case Action specifies all actions taken by the Department, the reason for the action, any manual items relied upon which cites the legal bases for the action, an explanation of the right to request a hearing, and the conditions under which benefits are continued if a hearing is requested. BAM 220 (October 2017), pp. 2-3.

At the hearing, the Department explained that Petitioner and his wife were disqualified for FAP benefits due to their length of time in the U.S. while having an acceptable immigration status. To be eligible for FAP benefits, a person must be a U.S. citizen or have an acceptable alien status for the designated program. BEM 225 (July 2017), p. 2. Individuals who do not meet the requirement are disqualified for benefits. *Id.* Other individuals living with a person disqualified under this requirement can qualify for program benefits, but the disqualified person's assets and income might have to be considered based upon the program requested. BEM 225, p. 2. Acceptable statuses for qualification in the FAP include, but are not limited to, persons who have lived in the U.S. as a qualified alien for at least five years since their date of entry and qualified aliens who are under 18 years of age. BEM 225, pp. 11-12. Qualified aliens include persons who are lawfully admitted for permanent residence under the Immigration and Nationality Act (INA), those granted asylum under Section 208 of the INA, refugees admitted to the U.S. under Section 207 of the INA, and others. BEM 225, p. 4. Petitioner's family arrived and began their Lawful Permanent Resident status in the U.S. on August 16, 2017. Since Petitioner and his wife have not been present in the U.S.

with a qualified status for at least five years, they are not eligible for FAP benefits. BEM 255, p. 11. However, Petitioner's daughter is under ■ years of age and has a Lawful Permanent Resident status since ■■■■■■■■■■; therefore, she is eligible for FAP benefits. BEM 225, p. 12.

Turning to the calculation of the FAP benefit rate for Petitioner's daughter, when calculating FAP benefits Bridges budgets a pro rata share of earned and unearned income of persons disqualified for not meeting citizenship/alien status requirements. BEM 550 (January 2017), p. 3. 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. In reviewing the household income and expenses, Petitioner did not dispute the income as calculated by the Department.

After review of the household income, a review of household expenses follows. 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3.

Petitioner argued that the Department did not properly consider some of his expenses including car payments, car insurance, and his phone bill. As of the time of his application for benefits and the date of the hearing, the Department did not and does not consider vehicle expenses in calculating FAP budgets. Therefore, the Department acted properly in not considering Petitioner's vehicle expenses. Turning to Petitioner's telephone bill, Petitioner has not provided proof of a telephone expense to the Department because of his circumstances. A FAP group, which has no heating/cooling expense, but has a responsibility to pay for a traditional land-line service or cellular phone service, must use the telephone standard. BEM 554, p. 22. The standard

covers **only** the telephone expense. Verification of the telephone expense is not required unless questionable. BEM 554, p. 22; see *also* BAM 130. In this case, the Petitioner did not receive the Heat and Utility Standard nor did he receive the Telephone Standard as a housing expense deduction. This was an error on the part of the Department. However, after consideration of income and applicable deductions, despite the Department's error, Petitioner's FAP benefit rate for his daughter would remain unchanged even if the error was corrected because she was already eligible for the maximum benefit rate of \$ [REDACTED] for a group size of one. RFT 260 (October 2017), p. 1.

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 determined that Petitioner and his wife were disqualified for FAP benefits and acted in accordance with Policy in determining a FAP benefit rate of \$ [REDACTED] for Petitioner's daughter.

### **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]  
[REDACTED]  
[REDACTED]

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