



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 19, 2018
MAHS Docket No.: 17-015955
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Laura Gibson

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 January 17, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP benefits.
2. On October 6, 2017, the Department received a verification of Petitioner's employment from Luxury Queen.
3. The verification of employment indicates that Petitioner was working twenty hours per week at [REDACTED] per hour, and was paid weekly.
4. After receiving the verification of employment, the Department recalculated Petitioner's eligibility for FAP benefits.

5. On October 6, 2017, the Department sent Petitioner a Notice of Case Action advising her that effective November 1, 2017, her benefits were being reduced to [REDACTED] monthly.
6. On November 1, 2017, Petitioner stopped working at [REDACTED], and advised her ACCESS worker. She did not inform her Department caseworker.
7. Petitioner has not received child support since August 2017.
8. On December 8, 2017, Petitioner submitted a Request for Hearing disputing the Department's actions regarding 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, Petitioner requested a hearing disputing the decrease in her FAP benefits, effective November 1, 2017. The Department testified that after receiving the verification of employment, the Department recalculated Petitioner's FAP eligibility. The Department presented a FAP budget showing its calculation of Petitioner's eligibility, which was reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits.

All countable earned and unearned income must be considered in determining a client's eligibility for program benefits. See BEM 500 (July 2017). A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received), and prospected income amounts (not received but expected). A group's benefits for the month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505 (October 2017), p. 1. Each source of income is converted to a standard monthly amount. In order to calculate a standard monthly amount, the Department multiplies amounts received weekly by 4.3. BEM 505, p. 8.

In this case, Petitioner was working 20 hours per week, at [REDACTED] per hour. Petitioner was paid weekly. Thus, Petitioner had a weekly income of [REDACTED]. Multiplying the weekly

income of [REDACTED] by 4.3 would result in a standard monthly amount of [REDACTED]. The Department's budget shows it calculated Petitioner's FAP eligibility using a standard monthly amount of [REDACTED]. Thus, the Department incorrectly calculated Petitioner's monthly earned income. Because the monthly income was not properly calculated it follows that Petitioner's FAP eligibility was not properly calculated.

At the hearing, Petitioner also contended that the Department improperly included her earned income in calculating her FAP eligibility after November 1, 2017, because she was no longer working at her position as of November 1, 2017. Petitioner reported that she had stopped working to her ACCESS worker, but not to her Department caseworker. The Department testified that it was unaware Petitioner had stopped working.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2017), p. 9. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within ten days of receiving the first payment reflecting the change. Clients are required to report starting or stopping a source of unearned income, and a change in gross monthly income of more than \$50 since the last reported change. BAM 105, pp. 11-12. Income decreases that result in a FAP benefit increase must be effective no later than the first allotment issued ten days after the date the change was reported. BEM 505, p. 11.

In this case, Petitioner contended that the Department should have known that her earned income had stopped, and thus should not have included it in the FAP budget. However, Petitioner did not report to the Department that her earned income had stopped, as is her responsibility. Thus, the Department acted in accordance with policy in including Petitioner's earned income in the FAP budget, despite the fact that the earned income was calculated incorrectly.

At the hearing, Petitioner also contended that the Department improperly included child support of [REDACTED] per month in calculating her FAP eligibility, because she had not received child support since August 2017. The Department testified that [REDACTED] in child support was included because the Bridges system automatically receives information from the Friend of the Court, and averaged three months of child support received for the period immediately prior. Child support is money paid by an absent parent for the living expenses of a child. Child support is income to the child for whom the support is paid. BEM 503 (July 2017), p. 6. When budgeting child support income, the Department uses the average of child support payments received in the past three calendar months. BEM 505, p. 4. At the hearing, Petitioner was advised that, if she disagrees with the child support amount, she needs to obtain a statement from the Friend of the Court as to the amount of child support she receives per month. The Department will then recalculate the child support that should be included in the unearned income portion of the budget.

Given the information available to the Department at the time it calculated Petitioner's FAP eligibility, the Department properly used an average of three calendar months of child support payments, based on the information the Department had received from the

Friend of the Court. Thus, the Department acted in accordance with policy when including \$9 in child support payments in Petitioner's unearned income in the FAP budget.

DECISION AND ORDER

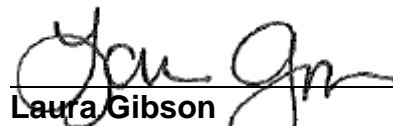
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Petitioner's FAP eligibility, as the Department improperly calculated the standard monthly amount of Petitioner's earned income.

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 for November 1, 2017, ongoing;
2. If Petitioner is eligible for a FAP supplement, issue a FAP supplement for benefits Petitioner was eligible to receive but did not for November 1, 2017, ongoing; and
3. Notify Petitioner in writing of its decision.

LG/tlf



Laura Gibson
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

Via Email:



Petitioner – Via First-Class Mail:

