



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 10, 2018
MAHS Docket No.: 18-002199
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

During the hearing, the parties agreed to consolidate Petitioner's dispute under docket number 18-002199 with Petitioner's dispute under docket number 18-002496 into a single corresponding hearing. Though Petitioner's disputes were consolidated into a single hearing, the corresponding hearing decisions remain separate. This hearing decision only addresses Petitioner's dispute under 18-002199.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 January 5, 2018, Petitioner applied for FAP benefits (see Exhibit A).
2. Petitioner was a member of a 2-person FAP-benefit group.
3. No members of Petitioner's FAP group were senior, disabled, or disabled veterans.

4. Petitioner received biweekly gross employment earnings of \$ [REDACTED] on December 15, 2017, and \$ [REDACTED] on December 29, 2017.
5. Petitioner's only housing obligation was an annual property tax obligation of \$ [REDACTED]
6. On January 1, 2018, MDHHS determined Petitioner to be eligible for \$ [REDACTED] in FAP benefits for January 2018 and \$ [REDACTED] in FAP benefits effective February 2018, in part, based on monthly employment income of \$ [REDACTED] and monthly housing costs of \$ [REDACTED]
7. On February 28, 2018, Petitioner requested a hearing to dispute FAP eligibility from January 2018.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request disputed her "amount of food". Petitioner testimony clarified that the dispute concerned the MDHHS determined FAP eligibility from January 2018.

MDHHS presented a Notice of Case Action (Exhibit B) dated January 11, 2016. The notice informed Petitioner of FAP eligibility in the amounts of \$ [REDACTED] for January 2015 and \$ [REDACTED] thereafter. The notice included a summary of most FAP-budget factors (see Exhibit D, p. 2). During the hearing, all relevant budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

MDHHS factored employment income of \$ [REDACTED] for Petitioner. Petitioner contended the calculated income was too much.

MDHHS presented copies of Petitioner's pay stubs (Exhibit F, pp. 1-2) for pay dates of December 1, 2017, and December 29, 2017. A Verification of Employment (Exhibit H) listed Petitioner's gross pay from pay dates of December 1, 2017, and December 15, 2017.

[For non-child support income, MDHHS is to] use past income to prospect income for the future unless changes are expected...¹ Use income from the past 30 days if it

¹ BEM 505 (October 2017) p. 1

appears to accurately reflect what is expected to be received in the benefit month.² The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.³

MDHHS presented a Verification Checklist (Exhibit B) dated January 9, 2018. The VCL requested Petitioner's proof of last 30 days of income. The VCL date justifies MDHHS' use of Petitioner's biweekly gross earnings from December 15, 2017, and December 29, 2017, into determining Petitioner's FAP eligibility.

For FAP benefits, MDHHS converts bi-weekly stable income into a 30-day period by multiplying the income by 2.15.⁴ Bridges counts gross [employment] wages... [other than exceptions such as earned income tax credit, census workers, flexible benefits...].⁵

Petitioner's pay check for December 29, 2017, listed gross earnings (gross pay + tips) totaling \$ [REDACTED]. The Verification of Employment listed Petitioner's gross earnings from December 15, 2017, totaling \$ [REDACTED]. Multiplying Petitioner's average pay by 2.15 results in a countable income of \$ [REDACTED].

Petitioner testified that her earnings have since decreased and that the income used by MDHHS did not accurately reflect her income. Petitioner's testimony does not alter her past eligibility. Petitioner was advised that she can submit updated pay verifications for consideration of changes to future benefit months. It is found that MDHHS properly determined Petitioner's countable income as \$ [REDACTED].

MDHHS credits clients with a 20% employment income deduction. Application of the deduction results in countable employment income of \$ [REDACTED] (dropping cents).

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$ [REDACTED] for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner's group included no SDV member.

Verified countable medical expenses for SDV groups exceeding \$ [REDACTED] child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner did not allege any countable medical, day care or child support expenses.

² *Id.*

³ *Id.*

⁴ See *Id.* at p. 8

⁵ BEM 501 (July 2016), p. 7.

Petitioner's FAP benefit group size justifies a standard deduction of \$[REDACTED].⁶ The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$[REDACTED].

MDHHS factored Petitioner's monthly housing costs as \$[REDACTED]. Petitioner contended the amount was too low.

Petitioner testimony only alleged a housing cost of property taxes. MDHHS presented Petitioner's property tax bill (Exhibit E). The bill listed an annual obligation of \$[REDACTED]. Dividing the obligation by 12 results in a monthly expense of \$[REDACTED]. Petitioner presented no evidence of a higher monthly obligation. Petitioner's monthly housing obligation is found to be \$[REDACTED].

MDHHS credited Petitioner with a heating utility standard of \$[REDACTED]/month. The utility standard incorporates all utilities and is the maximum credit available.⁷ Petitioner's total shelter expenses (housing + utilities) are found to be \$[REDACTED] (rounding to nearest dollar).

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$[REDACTED].

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$[REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance for a full month of benefits is \$[REDACTED]. MDHHS determined the same eligibility for Petitioner. Petitioner is entitled to a pro-rated FAP amount of \$[REDACTED] for January 2018 based on an application date of January 5, 2018; MDHHS determined the same eligibility for Petitioner. It is found that MDHHS properly determined Petitioner's FAP eligibility from January 2015.

⁶ See RFT 255

⁷ See RFT 255

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility from January 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



Christian Gardocki

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]
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