



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 6, 2018  
MAHS Docket No.: 18-002227  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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. The Petitioner was represented by her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Lead Worker.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

**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 FAP recipient.
2. On February 2, 2018, Petitioner completed a redetermination (Exhibit A).
3. Petitioner was a member of a group that consisted of herself, her husband, and her four children.
4. The sole income of the household was Petitioner's husband's self-employment income (Exhibit B).

5. On February 15, 2018, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the amount of [REDACTED] per month effective March 1, 2018, ongoing (Exhibit F).
6. On February 28, 2018, Petitioner's husband requested a hearing disputing 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, Petitioner's husband requested a hearing disputing the Department's determination as to the amount of FAP benefits the group was entitled to receive. Prior to the redetermination completed on February 2, 2018, Petitioner's group was eligible to receive [REDACTED] in FAP benefits per month. After the redetermination was completed, the Department determined Petitioner's FAP group was entitled to [REDACTED] in FAP benefits per month effective March 1, 2018, ongoing. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefits for March 1, 2018, ongoing (Exhibit C).

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. Individuals who run their own businesses are self-employed. BEM 502 (July 2017), p. 1. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. BEM 502, p. 1. The amount of self-employment income before any deductions is called total proceeds. BEM 502, p. 3. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502, p. 3. Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502, p. 3. BEM 502 provides a list of expenses that are allowed when determining self-employment countable income, pp. 3-4.

According to the budget provided, the Department determined Petitioner's husband's monthly countable self-employment income was [REDACTED] per month. The Department presented Petitioner's husband's 2017 tax document which showed he had a gross yearly income of [REDACTED]. The Department divided that figure by 12 and determined Petitioner's husband's monthly self-employment proceed amount was [REDACTED]. The individual that testified on behalf of the Department was unsure as to how the [REDACTED] figure was reached. The Department was unclear as to whether the proceeds were reduced by 25% or Petitioner's husband's actual expenses. The total proceed amount of [REDACTED] reduced by 25% does not equal [REDACTED]. The Department presented Petitioner's husband's Self-Employment Income and Expense Statement (Exhibit D). According the document, Petitioner's husband had expenses in the amount of [REDACTED] per month. The total proceeds of [REDACTED] reduced by [REDACTED] does not equal [REDACTED]. It is unclear as to how the Department determined Petitioner's monthly self-employment countable income amount. Therefore, the Department failed to establish that it properly determined Petitioner's husband's self-employment income. As it follows, the Department failed to establish it properly determined Petitioner's FAP benefit amount.

### **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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit amount.

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. Redetermine Petitioner's FAP eligibility as of March 1, 2018, ongoing;
2. If Petitioner is entitled to additional FAP benefits, issue supplements she was entitled to receive but did not as of March 1, 2018, ongoing; and
3. Notify Petitioner of its FAP decision in writing.

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**Ellen McLemore**  
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:**

[REDACTED]

**Petitioner –  
Via First-Class Mail:**

[REDACTED]

**Authorized Hearing Rep.-  
Via First-Class Mail:**

[REDACTED]