



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 17, 2018  
MAHS Docket No.: 18-002400  
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 April 16, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) 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. Petitioner is an ongoing FAP recipient.
2. On March 2, 2018, Petitioner submitted a hearing request disputing the reduction and calculation of her FAP benefit rate which had decreased after review of her January 2018 Redetermination.
3. At the hearing, the Department conceded that Petitioner's FAP benefit rate was incorrectly calculated and requested that the undersigned issue an order requiring the Department to reprocess Petitioner's FAP eligibility and benefit rate.

## **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 FAP benefit rate was recalculated after review and implementation of changes listed in her January Redetermination. At the hearing, the Department conceded that the heat and utility (h/u) standard was improperly removed from Petitioner's FAP budget calculation, that her carrying charges or condominium expense was not properly budgeted, and that her medical expense had been improperly included. Petitioner does not dispute any other elements of her FAP budget calculation.

After consideration of income, the Department must consider expense when calculating a FAP benefit rate. Petitioner is disabled; therefore, she 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.
- Medical deduction.
- An earned income deduction equal to 20% of any earned income.

BEM 550 (January 2017); BEM 554 (August 2017), p. 1; BEM 556 (July 2013), p. 3.

Medical expenses are only considered for Senior, Disabled, or Disabled Veteran (SDV) group members. Medical expenses are considered for verified allowable medical expenses and are based upon available information about the SDV member's medical condition, health insurance, and changes that can reasonably be anticipated to occur in a benefit period. BEM 554, p. 9. In this case, the Department has been budgeting a medical expense of \$ [REDACTED] for Petitioner since at least 2009, but it was never verified. Petitioner admits that she has not provided any documentation regarding her medical expense and never knew what the deduction was for. Since the expense was never verified, the Department should not have considered it in her FAP budget.

The Department removed Petitioner's h/u standard because Petitioner does not pay for her heating expense. However, Petitioner pays for her cooling expenses. The h/u standard covers all heat and utility costs including cooling, except actual utility expenses such as installation fees or other similar items. BEM 554, p. 15. FAP groups that qualify for the h/u standard do not receive any other individual utility standard deductions. *Id.* FAP groups whose heat is included in their rent can still qualify for the h/u standard if they receive a home heating credit, a low-income home energy assistance payment, or if they pay for the cooling costs. *Id.* In this case, Petitioner does not pay for her heat, but she pays for her cooling costs in addition to her electric bill. Therefore, removal of the h/u standard was inappropriate and not in compliance with policy.

Finally, Petitioner's housing expense was improperly considered as \$ [REDACTED] instead of \$ [REDACTED]. The Department determined that the proof of expense provided by Petitioner was insufficient and did not budget the increased expense. 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. BEM 554, p. 13. Acceptable verification sources include, but are **not** limited to:

- Mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company.
- Copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification form. A copy of this form will be sent to the FAP group and a task and reminder sent to the specialist when a change of address is done in Bridges. The due date will be on the form. The specialist must monitor for return of the form and take appropriate action if it is or is **not** returned.
- Current lease.

BEM 554, p. 15. In this case, Petitioner provided an account ledger from her Towne House Cooperative which covered the period from February 2017 through March 2018. The ledger lists the cooperative's name, Petitioner's name, her address, the charges for each month, and the credits for each month. Petitioner's verification of her housing expense is sufficient to verify Petitioner's housing expense and leaves no room for question regarding her circumstances. Therefore, the Department should have considered the verification of her expense and considered it in her FAP budget.

Based on the above Findings of Fact and Conclusions of Law, the Department's request for an order to reprocess Petitioner's FAP case, 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 benefit rate.

**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. Reprocess Petitioner's FAP benefit eligibility beginning March 1, 2018, ongoing;
2. If Petitioner remains eligible for FAP benefits after the reprocessing and is eligible for a benefit greater than that previously received, issue supplements to Petitioner in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



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**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**

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