



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 18, 2018
MAHS Docket No.: 18-002404
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 12, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance (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. The Petitioner applied for Food Assistance on January 31, 2018. Exhibit A
2. The Department issued a Notice of Case Action on February 26, 2018 approving the Petitioner for FAP effective January 31, 2018 and For February 1, 2018 ongoing for [REDACTED] monthly. Exhibit C.
3. The Petitioner has unearned income from Social Security in the amount of [REDACTED] and also has a monthly pension in the amount of [REDACTED]. The total unearned income for Petitioner as determined by the Department is [REDACTED]. Exhibit D and Exhibit E. The Petitioner did not dispute the Department's income determination.
4. The Petitioner pays property taxes of [REDACTED] (winter) and [REDACTED] (summer) which total [REDACTED] for a monthly amount of [REDACTED]. Exhibit G.

5. The Petitioner also pays homeowners insurance of \$118.66 for a monthly cost of [REDACTED]. The Petitioner pays [REDACTED] monthly for her condominium association fees which payment includes heating expense as part of the monthly association fees. Exhibit F.
6. The Petitioner also pays for electricity and telephone. The Petitioner did not receive a Low Income Home Energy Assistance Payment (LIHEAP) payment assisting her with her heating. The Petitioner did not pay for cooling (room air conditioner). The Petitioner is not billed by the condominium association for excess heat payments.
7. The Petitioner is a FAP group of one. The Petitioner is 72 years of age and is thus considered a senior and is an SDV group.
8. The Petitioner timely verbally requested a hearing on February 26, 2018 regarding the amount of her food assistance.

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, the Petitioner requested a review of her food assistance (FAP) benefit amount. The Department presented the information it relied upon to calculate the Petitioner's FAP. Certain amounts used by the Department in the FAP budget presented were not disputed by the Petitioner. The income was determined to be [REDACTED] consisting of SSA benefits and pension was reviewed and is correct, and the amounts of each income was confirmed at the hearing by Petitioner. The Department presented the Petitioner's food assistance budget for April 2018 at the hearing which was reviewed with the Petitioner at the hearing to determine if the monthly FAP benefit of [REDACTED] was correct. Exhibit H.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1

– 4. The Department considers the gross amount of money earned or received from RSDI social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The Department concluded that Petitioner had unearned income from Social Security in the amount of [REDACTED] and pension income in the amount of [REDACTED] for a total of [REDACTED] which was not disputed by the Petitioner. The Department presented a SOLQ in support of its testimony, Petitioner confirmed that Petitioner receives these amounts and they were correct. Therefore, the Department properly calculated Petitioner's gross unearned income.

The deductions to income on the FAP budget were also reviewed. Petitioner has a FAP group of one member and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (February 2016), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and there was no evidence presented that she had any dependent care, or paid child support. The Petitioner did receive credit as a medical expense for her Medicare Part B premium of [REDACTED] which is deducted from her social security. The medical expenses were in the FAP budget calculation for [REDACTED] which is correct after the first [REDACTED] is deducted. BEM 554. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, and child support expenses. Based on the confirmed one-person group size, the Department properly applied the \$[REDACTED] standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction, The Department determines the eligible monthly shelter costs incurred for housing. The Department properly included Petitioner's monthly housing expense for condominium fees in the amount of [REDACTED], the homeowners insurance expense of [REDACTED], the property taxes presented which totaled [REDACTED] and credited her a non heat utility electric standard of [REDACTED] and telephone standard of [REDACTED] as part of the housing costs. Exhibit H. See BEM 554, pp. 16-19.

A review of the excess shelter deduction budget and Department policy shows that the Department under credited the monthly property tax properly expense which the Department determined to be [REDACTED] instead of [REDACTED]. Property taxes are totaled and divided by 12 months to get a monthly amount. Even though the amount used was

\$2.00 less that actual expense the difference will not affect the FAP benefits as explained hereafter because the result is still the same in that the Petitioner is not entitled to an excess shelter deductions as explained hereafter.

The Petitioner testified that she paid a monthly condo fee of \$ [REDACTED] which included heat. She further testified that she did not receive a Low Income Home Energy Assistance Payment (LIHEAP) payment assisting her with her heating in the past year or her application month. Based upon Department policy the Petitioner is not entitled to a shelter allowance heat allowance of [REDACTED] because her heat is included in her monthly condo fee. If the cost of heating is included in the condominium fee, the Petitioner is not eligible for the Heat/utility allowance unless, she pays separately for excess heat costs, pays a separate heat cost that is not included in the condo fee, pays for cooling cost including room air conditioners, **and** received a [REDACTED] LIHEAP payment as well. Based upon the evidence presented the Department properly determined that the Petitioner was not eligible for the [REDACTED] heat/utility allowance. See BEM 554, (August 2017), pp. 15-18.

Because the Department properly determined that Petitioner was not eligible for the heat/utility allowance, the Petitioner was eligible for a Non-Heat Electric Standard of [REDACTED] a month as part of her shelter costs because she pays for electricity. The Petitioner was also eligible and received a [REDACTED] monthly telephone expense. Department policy does not allow for the actual expense for electricity or phone as a standard allowance is used in all cases. BEM 554, pp. 21-22.

So, based upon the foregoing the Petitioner's total shelter cost included [REDACTED] (non heat allowance), [REDACTED] (telephone allowance), Condo Fee of \$ [REDACTED], property taxes of [REDACTED] and insurance cost of [REDACTED] monthly for total shelter expense of [REDACTED]. The Department determined that the Petitioner was eligible for an excess shelter deduction of \$0. To determine excess shelter deduction, one half of the adjusted gross income of [REDACTED]) is deducted from the total shelter cost or expense which is \$486 which results in an excess shelter deduction of zero. [REDACTED]. Thus, the Department correctly determined the excess shelter deduction to be [REDACTED]. BEM 554.


In conclusion, based upon a net income of [REDACTED] the Department correctly determined that the Petitioner is eligible for \$ [REDACTED] in FAP benefits monthly. RFT 260 (October 2017), p. 16. Exhibit H.

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 calculated the Petitioner FAP benefits to be [REDACTED] a month.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LF/tm



Lynn M. Ferris
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]
[REDACTED]
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[REDACTED]

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

[REDACTED] [REDACTED]
[REDACTED]