



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: May 22, 2018  
MAHS Docket No.: 18-003603  
Agency No.: ██████████  
Petitioner: ██████████

**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 May 18, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by ██████ ██████, Assistance Payments Supervisor and ██████ ██████, Assistance Payments Specialist.

**ISSUE**

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits?

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. On March 15, 2018, Petitioner submitted an application for FIP, FAP and State Disability Assistance (SDA) benefits (Exhibit A).
2. In the application, Respondent indicated she had income from employment.
3. Petitioner received ██████████ in child support payments.

4. At the time of the application, Petitioner was receiving assistance from family members with her rent in the monthly amount of [REDACTED].
5. Petitioner's household consisted of herself and her minor child.
6. On March 15, 2018, the Department sent Petitioner a Notice of Case Action informing her that her application for FIP benefits was denied (Exhibit C).
7. At some point, Petitioner was sent a Notice of Case Action informing her that she was approved for FAP benefits.
8. On April 2, 2018, Petitioner submitted a request for hearing disputing the Department's actions regarding her FIP, FAP and SDA 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).

#### **FIP**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner submitted an application for FIP benefits on March 15, 2018. On March 15, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied due to excess income. The Department presented a FIP budget to establish that Petitioner exceeded the income limit for the FIP program (Exhibit B).

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3. In this case, the Department testified that there were two individuals in Petitioner's FIP group. Based on a certified FIP group size of two, the applicable payment standard is [REDACTED]. RFT 210 (April 2017), p. 1.

At the application for FIP benefits, the Department applies the qualifying deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The

qualifying deficit test compares (i) the group's budgetable income for the income month decreased by the qualifying earned income disregard to (ii) the certified group's payment standard for the benefit month, or, in this case, [REDACTED]. BEM 518, p. 3. The qualifying earned income disregard reduces each person's countable earnings by [REDACTED] and then by an additional 20% of the person's remaining earnings. BEM 518, p. 5. If the qualifying deficit test results in no deficit, the client is ineligible for FIP for the benefit month. BEM 518, p. 3.

The Department determined Petitioner's monthly earned income was [REDACTED]. The Department used Petitioner's statement in her application that she was working 15 hours per week at [REDACTED] per hour (Exhibit A, p. 13). In the application, Petitioner answered the question how often she was paid with "other." As Petitioner indicated her payrate on an hourly basis, the Department calculated Petitioner's income as if she were paid weekly.

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. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

Petitioner testified that at the time of application, she had just begun her employment. Petitioner stated she was promised 15 hours per week at [REDACTED] per hour. Petitioner stated she was not ultimately given 15 hours per week, but the statement was accurate at the time of application. As Petitioner's income was uncertain at the time of application, the Department properly used the statements in the application provided by Petitioner to calculate her income. Petitioner's hourly rate of [REDACTED] multiplied by 15 hours per week, results in a weekly payment of [REDACTED]. [REDACTED] multiplied by the 4.3 multiplier results in a monthly income amount of [REDACTED]. Therefore, the Department properly calculated Petitioner's monthly earned income.

Petitioner's earned income of [REDACTED] reduced by the standard earned income deduction of [REDACTED] is [REDACTED]. Petitioner's remaining earnings ([REDACTED]) reduced by the earned income

deduction of 20% is [REDACTED]. Therefore, the Department properly determined Petitioner's net earned income was [REDACTED].

The Department also determined that Petitioner had [REDACTED] per month in unearned income, which consisted of child support payments and "other unearned income." When calculating child support income, the Department uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 4. If there are known changes that will affect the amount of the payments in the future, the Department will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5.

According to budget, Petitioner received [REDACTED] in child support. The Department did not provide the consolidated inquiry showing the amount Petitioner received in child support. However, Petitioner confirmed the amount was correct. Therefore, the Department properly determined Petitioner had [REDACTED] in unearned income from child support payments.

The Department testified that Petitioner was interviewed, and she admitted she received [REDACTED] per month in rental assistance. The Department received written statements from Petitioner's family members stating that they were paying her monthly rent in the amount of [REDACTED] beginning in March 2018 and continuing until she found employment. Petitioner confirmed that information was accurate.

A donation to an individual by family or friends is the individual's unearned income. BEM 503, p. 11. The Department counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503, p. 11. As Petitioner was receiving donations from individuals outside her FIP group, the Department properly included those payments as unearned income in the amount of [REDACTED].

Petitioner's net earned income of [REDACTED] with the total monthly unearned income of [REDACTED], results in a monthly countable income amount of [REDACTED]. Petitioner's monthly countable income well exceeds Petitioner's payment standard of [REDACTED]. Therefore, the Department properly concluded that Petitioner is not eligible for FIP benefits.

## **FAP**

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 submitted an application for FAP benefits on March 15, 2018. The Department testified Petitioner's application was approved but was unsure as to when the Notice of Case Action was sent.

FAP budget calculations consider all countable earned and unearned income, group size, as well as deductions such as dependent care expenses, excess shelter, child support, standard deduction and potentially a medical deduction. BEM 500 (July 2017), pp. 1–5; BEM 212 (January 2017), p. 1; BEM 554 (January 2017), p. 1; and BEM 556 (July 2013), p. 3. Prior to the hearing, the Department did not provide the Notice of Case Action approving Petitioner's FAP benefits showing the amount of benefits she was entitled to receive. The Department had very little knowledge of the factors considered when calculating Petitioner's FAP benefit amount. The Department was advised to submit the budgets showing the calculation of Petitioner's FAP benefits, as well as any notices sent to Petitioner advising her of the amount of FAP benefits she was entitled to receive. As of the date this decision was written, those documents were not received. In the absence of sufficient testimony providing information regarding the calculation of Petitioner's FAP benefit amount, as well as the absence of supporting documentation, the Department failed to establish that it acted in accordance with policy when it calculated Petitioner's FAP benefit amount.

### **SDA**

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's SDA program benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood the actions taken by the Department and did not wish to proceed with the hearing. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request related to Petitioner's SDA benefits filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

### **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 acted in accordance with Department policy when it denied Petitioner's FIP application. The Department failed to establish that it acted in accordance with policy when it determined Petitioner's FAP benefit amount.

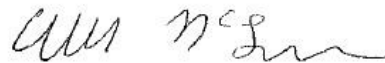
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Petitioner's FIP benefit application and **REVERSED IN PART** with respect to Petitioner's FAP benefit amount.

Pursuant to the withdrawal of the hearing request filed in this matter related to Petitioner's SDA benefits, the Request for Hearing is, hereby, **DISMISSED**.

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 the date of the March 15, 2018 application;
2. If Petitioner is entitled to additional FAP benefits, issue supplements she is entitled to receive; 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) 763-0155; 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]