



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 25, 2018
MAHS Docket No.: 18-004094
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 22, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist; and [REDACTED], Assistant Payment Manager. [REDACTED] served as the American Sign Language (ASL) translator during the hearing.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment effective February 1, 2018?

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 recipient of FAP benefits.
2. Petitioner receives \$ [REDACTED] in monthly Supplemental Security Income (SSI) and \$ [REDACTED] monthly average in State SSI Payment (SSP). [Exhibit A, pp. 5-10.]
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits increased to \$ [REDACTED] effective [REDACTED]. [Exhibit A, pp. 18-19.]

4. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-4.]

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Preliminary matters

First, Petitioner filed a hearing request via e-mail in which she protested her FAP benefits and SSP benefits. [Exhibit A, pp. 2-4.] However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's SSP benefits. Policy states that all clients have the right to request a hearing. BAM 600 (January 2018), p. 2. The following people have authority to exercise this right by signing a hearing request:

- An adult member of the eligible group; or
- The client's authorized hearing representative (AHR).

BAM 600, p. 2. *Requests for a hearing must be made in writing and signed by one of the persons listed above.* BAM 600, p. 2 (emphasis added). *The request must bear a signature.* BAM 600, p. 2 (emphasis added). *Exception, for FAP only, a hearing request may be written or oral.* BAM 600, p. 2 (emphasis added).

Based on the above policy, Petitioner failed to submit a signed hearing request in which she disputed her SSP benefits. As a result, Petitioner's hearing request concerning the SSP benefits will be DISMISSED. See BAM 600, p. 2. Petitioner can attempt to file another hearing request in which she disputes her SSP benefits. See BAM 600, pp. 1-6.

Second, the undersigned does have the jurisdiction to address Petitioner's FAP benefits. Pursuant to the above policy, Petitioner's e-mail disputing her FAP benefits falls within the policy exception when requesting a hearing. BAM 600, p. 2. Petitioner, though, sought to dispute her FAP benefits dating back to on or about [REDACTED]. However, the undersigned lacks the jurisdiction to address her FAP benefits dating back to this time period. The undersigned can address her FAP benefits dating from [REDACTED], ongoing because her hearing request was filed within 90 days of the Notice of Case Action (dated [REDACTED]) addressing her [REDACTED], ongoing, benefits. [Exhibit A, pp. 18-19; BAM 600, p. 6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).]

Third, Petitioner also disputed the fact that she had two case numbers (Case Nos. [REDACTED] and [REDACTED] [Exhibit A, p. 1.] However, the undersigned lacks any jurisdiction to address her case number issue. See BAM 600, pp. 1-6. As a remedy, Petitioner should speak with the Department to resolve this issue.

FAP benefits

It was not disputed that the certified group size is one and that Petitioner is a senior/disabled/disabled veteran (SDV) member. The Department presented a FAP budget for review. [Exhibit A, pp. 12-14.]

First, the Department properly calculated Petitioner's gross unearned income to be \$ [REDACTED] [Exhibit A, p. 12.] This amount consisted of Petitioner's \$ [REDACTED] in monthly SSI and \$ [REDACTED] monthly average in SSP benefits, which she did not dispute. [Exhibit A, pp. 5-10.]

Next, the Department applied the \$ [REDACTED] standard deduction applicable to Petitioner's group size of one. [Exhibit A, p. 12; RFT 255 (October 2017), p. 1.] Petitioner also did not dispute that the dependent care, medical, and child support deductions were calculated as zero. [Exhibit A, p. 12.] Once the Department subtracts the \$ [REDACTED] standard deduction, this results in an adjusted gross income of \$604. [Exhibit A, p. 14.]

Also, the Department provides Petitioner with an excess shelter deduction. The FAP – Excess Shelter Deduction budget indicated that Petitioner's monthly housing expense is \$ [REDACTED] which she did not dispute. [Exhibit A, pp. 11 and 13.] The Department also provided Petitioner with the \$ [REDACTED] mandatory heat and utility (h/u) standard, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$ [REDACTED] amount. [Exhibit A, p. 13; BEM 554 (August 2017), pp. 15-18; and RFT 255, p. 1.]

Furthermore, the total shelter obligation is calculated by adding Petitioner's housing expenses to the utility credit; this amount is found to be \$ [REDACTED] [Exhibit A, p. 13.] Then, the Department subtracts the total shelter amount from fifty percent of the \$ [REDACTED] adjusted gross income. Fifty percent of the adjusted gross income is \$ [REDACTED] [Exhibit A,

pp. 13-14.] When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$ [redacted] [Exhibit A, p. 13.]

The Department then subtracts the \$ [redacted] adjusted gross income from the \$ [redacted] excess shelter deduction, which results in a net income of \$ [redacted] [Exhibit A, p. 14.] A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, the Department properly determined that Petitioner's FAP benefit issuance is found to be \$ [redacted] effective [redacted]. RFT 260 (October 2017), p. 3.


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 properly calculated Petitioner's FAP allotment in the amount of \$ [redacted] effective [redacted].

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

IT IS ALSO ORDERED that Petitioner's **SSP** hearing request is **DISMISSED**.

EF/hb



Eric J. Feldman
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

DHHS

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeny via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

