



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: June 6, 2018
MAHS Docket No.: 18-004095
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 4, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shanna Ward, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner’s Food Assistance Program (FAP) eligibility for May 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 was an ongoing member of a two-person FAP group, which also included Petitioner’s spouse (hereinafter “Spouse”).
2. Spouse received gross employment biweekly income of \$ ██████████ on February 23, 2018, and \$ ██████████ on March 9, 2018. (Exhibit A, pp. 6-7)
3. Petitioner received gross employment biweekly income of \$ ██████████ on March 3, 2018, and \$ ██████████ on March 17, 2018. (Exhibit A, pp. 8-11)
4. On April 6, 2018, MDHHS determined Petitioner to be eligible for \$ ██████████/month in FAP benefits.

5. On an unspecified date, MDHHS updated Petitioner's FAP eligibility. MDHHS determined Petitioner was eligible for \$█/month in FAP benefits, effective May 2018, in part based on household employment income of \$█ (Exhibit A, pp. 12-13)
6. On April 16, 2018, Petitioner submitted to MDHHS a hearing request disputing FAP eligibility. Petitioner also checked disputes concerning Family Independence Program (FIP) and Medical Assistance (MA).
7. Petitioner verbally withdrew his disputes concerning FIP and MA benefits during the hearing.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request checked disputes concerning FIP and MA benefits. During the hearing, Petitioner testified that he did not intend to dispute FIP or MA eligibility and that a hearing was unnecessary concerning these programs. Based on Petitioner's verbal withdrawal, Petitioner's hearing request will be dismissed concerning FIP and MA benefits.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a reduction in FAP benefits. Petitioner testified that he disputed a reduction in FAP benefits beginning May 2018. MDHHS presented a Notice of Case Action dated April 6, 2016, which informed Petitioner of a reduction to \$ [REDACTED] in FAP benefits. (Exhibit A, pp. 1-5). MDHHS credibly testified that Petitioner's FAP benefit factors were updated since the notice was issued and that no change in Petitioner's FAP eligibility occurred. MDHHS presented the updated budget (Exhibit A, pp. 12-13) which reflected Petitioner's most current determination of FAP eligibility. During the hearing, all updated FAP budget factors as cited in BEM 556 were discussed with Petitioner.

MDHHS factored \$ [REDACTED] in household employment income. Petitioner contended the employment income was too high.

Bridges counts gross [employment] wages... [other than exceptions such as earned income tax credit, census workers, flexible benefits...]. BEM 501 (July 2016), p. 7. For FAP benefits, MDHHS converts bi-weekly stable income into a 30-day period by multiplying the income by 2.15. BEM 505 (October 2017), p. 4). MDHHS is to count income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*, p. 6

Petitioner contended that MDHHS should have calculated his income based on the seven months per year that he works. Assuming Petitioner only does work seven months per year, his contention is irrelevant for purposes of his FAP eligibility for May 2018 because his income from the past 30 days accurately reflected his income for the benefit month being determined.

Spouse received biweekly gross employment income of \$ [REDACTED] on February 23, 2018, and \$ [REDACTED] on March 9, 2018. Multiplying Spouse's average biweekly gross pay by 2.15 results in a countable monthly income of \$ [REDACTED] (dropping cents).

Petitioner received biweekly gross employment income of \$ [REDACTED] on March 3, 2018, and \$ [REDACTED] on March 17, 2018. Multiplying Petitioner's average biweekly gross pay by 2.15 results in a monthly income of \$ [REDACTED] (dropping cents).

Adding Spouse's and Petitioner's countable income results in a total income of \$ [REDACTED]. MDHHS calculated a countable income of \$ [REDACTED]. For purposes of this decision, the lower, and more favorable income for Petitioner, will be accepted as correct. Thus, Petitioner's countable income is found to be \$ [REDACTED].

MDHHS credits clients with a 20% employment income deduction. Application of the deduction results in countable employment income of \$ [REDACTED] (dropping cents).

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses:

child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Petitioner's FAP group did not include an SDV member.

Verified countable medical expenses for SDV groups exceeding \$35, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner did not allege any countable day care or child support expenses. Petitioner is not entitled to medical expense deductions because his group does not include a SDV member.

Petitioner's FAP benefit group size justifies a standard deduction of \$160 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$██████.

As of April 2018, Petitioner's rental obligation was \$██████ MDHHS credited Petitioner with a heating/utility standard of \$██████ /month. The utility standard incorporates all utilities and is the maximum credit available (see BEM 255) Petitioner's total shelter expenses (housing + utilities) are found to be \$██████.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$██████.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$██████. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner's proper FAP benefit issuance is \$██████ MDHHS determined the same eligibility for Petitioner. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning May 2018.

DECISION AND ORDER

During the hearing, Petitioner verbally withdrew his disputes concerning FIP and MA eligibility. Concerning Petitioner's disputes of FIP and MA, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$█ in FAP benefits effective May 2018. The actions taken by MDHHS are **AFFIRMED**.

CG/



Christian Gardocki

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

Amber Gibson
MDHHS-Ingham-Hearings

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

BSC4
M Holden
D Sweeney
B Sanborn
D Smith
EQAD
C Gardocki
MAHS