



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 26, 2018
MAHS Docket No.: 18-004426
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, an in-person hearing was held on June 21, 2018, from Sterling Heights, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Haysem Hosny, hearing facilitator.

ISSUE

The issue is whether MDHHS properly redetermined Petitioner's Food Assistance Program (FAP) eligibility.

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 FAP recipient whose benefit period was scheduled to end after April 2018.
2. At all relevant times, Petitioner resided with his mother who was not a member of Petitioner's FAP group.
3. At all relevant times, Petitioner had an unearned income of \$██████ /month, no day care expenses, no medical expenses, and no child support expenses.
4. On April 13, 2018, Petitioner submitted to MDHHS a gas bill for his address. The bill was in the name of Petitioner's father. Petitioner reported to MDHHS that he was responsible for some or all of the gas bill.

5. On an unspecified date, MDHHS determined Petitioner to be eligible for \$█ in FAP benefits, effective May 2018. Factors considered by MDHHS included the following: a 1-person FAP group, \$█/month in unearned income, \$█ standard deduction, \$█ daycare expenses, \$█ medical expenses, \$█ child support, and no utility credits other than telephone.
6. On April 27, 2018, Petitioner requested a hearing to dispute FAP eligibility beginning May 2018.

CONCLUSIONS OF LAW

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 requested a hearing to dispute a redetermination of FAP benefits beginning May 2018. Beginning May 2018, MDHHS determined Petitioner to be eligible to receive \$█ in FAP benefits. The issuance happened to be a reduction of FAP eligibility from the FAP benefits that Petitioner received in April 2018.

Petitioner contended that he was procedurally entitled to receive for May 2018 the same FAP benefit amount he received in April 2018 because he submitted a timely hearing request.¹ Generally, clients who submit timely hearing requests are entitled to receive the same benefits issued from immediately before the disputed MDHHS action took place, pending the hearing outcome. The general rule does not apply for clients seeking to receive FAP benefits from a previous benefit certification period. BAM 600 (April 2018) p. 25. In the present case, Petitioner was not entitled to receive the amount of FAP benefits from April 2018 pending the hearing because April 2018 was from a previous benefit period.

Petitioner also contended that MDHHS erred in determining his FAP eligibility for May 2018. During the hearing, all factors from the May 2018 FAP budget were discussed. Petitioner's only disputes concerned housing expenses and utilities.

MDHHS credited Petitioner with a \$█ monthly rent; Petitioner acknowledged that he pays his mother \$█ in monthly rent. Petitioner testified that he additionally pays house insurance.

¹ A timely hearing request is one submitted to MDHHS within 10 days of the date the notice of case action was issued. BAM 600 (April 2018) p. 25.

On an unspecified date in April 2018, Petitioner submitted to MDHHS a property insurance bill for his address. The bill was in the name of Petitioner's mother who was also a resident of Petitioner's household. MDHHS' testimony indicated that Petitioner was not given credit for a property insurance obligation because Petitioner's submission did not verify an obligation for Petitioner, only Petitioner's mother.

A copy of a property insurance policy is an acceptable verification of a property insurance obligation. BEM 554 (August 2017) p. 14. Such verification is acceptable for the owner of the property. Petitioner's mother was the owner of the residence, not Petitioner. Petitioner should receive credit for paying property insurance if he submitted verification of his responsibility for the property taxes (e.g. a statement from Petitioner's mother that Petitioner pays for property insurance); Petitioner did not submit such verification to MDHHS. It is found that MDHHS properly did not credit Petitioner with an obligation for property insurance.

Concerning utilities, MDHHS credited Petitioner only with a telephone obligation. Petitioner contended that MDHHS should have credited home with a credit for paying heat. Petitioner submitted to MDHHS a copy of his residence's heat bill on April 27, 2018. The bill was in the name of Petitioner's father (who does not live at the residence with Petitioner and his mother). MDHHS denied Petitioner credit for paying heat because Petitioner did not verify his obligation for the heat bill.

A copy of a heat bill is an acceptable source of an obligation for heat. MDHHS policy also specifically states, "If the heating bill is in someone else's name, allow the expense if the client claims the expense and the service address on the bill is where the FAP group lives." *Id.*, p. 28. Petitioner's claim of responsibility for payment of heat should have been accepted by MDHHS based on the submission of a heat bill listing Petitioner's address. Thus, it is found that MDHHS improperly failed to credit Petitioner with an obligation for heat.

Per BEM 554, an obligation for heat justifies issuance of the full heat/utility (h/u) standard. Per RFT, the h/u standard is \$ [REDACTED] MDHHS will be ordered to recalculate Petitioner's FAP eligibility subject to including the h/u standard.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to credit Petitioner for payment of heat. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Recalculate Petitioner's FAP eligibility, effective May 2018, subject to the finding that Petitioner is entitled to receive a h/u standard credit; and
- (2) Initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

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

Vivian Worden
MDHHS-Macomb-36-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

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M Holden
D Sweeney
C Gardocki
MAHS