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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.: 18-004909
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 21, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Gregory Folsom, Eligibility Specialist and Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's Food Assistance Program (FAP) application based upon excess income over the net income limit?

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 23, 2018, Petitioner submitted her Application Filing Form and received the appropriate forms for each program to which she wanted to apply.
2. On March 26, 2018, Petitioner submitted Applications for the Family Independence Program (FIP), Medical Assistance (MA), Child Development and Care (CDC), and FAP benefits.
3. On March 28, 2018, Petitioner provided proof of income with pay stubs dated March 2, 2018; March 9, 2018; and March 16, 2018.
4. On March 30, 2018, the Department issued a Notice of Case Action granting Petitioner's application for FAP benefits in the amount of \$ ██████ for March 2018 and \$ ██████ for April 2018, ongoing.

5. On April 6, 2018, Petitioner submitted an additional pay stub from March 30, 2018.
6. On April 12, 2018, Petitioner's FIP budget was approved for May 2018 in the amount of \$ [REDACTED] prompting the issuance of a Notice of Case Action informing Petitioner of the closure of FAP benefits, effective May 2018, due excess income over the net income limit once the FIP benefit was considered in the FAP budget.
7. On May 11, 2018, Petitioner submitted her Request for Hearing to the Department disputing the denial of FAP 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).

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's FAP case was closed after consideration of her FIP income. Petitioner does not believe that her income, as the caretaker of her four grandchildren, should be considered in the calculation of FAP benefits for the children.

Composition of FAP groups is directed by policy found in BEM 212. FAP group composition is established by determining who lives together, the relationships of those who live together, whether the people living together purchase and prepare food together, and whether the individuals fall within a special living situation. BEM 212 (January 2017), p. 1. A caretaker is a related or unrelated person who provides care or supervision to children under 18 who live with the caretaker but who are not natural, step, or adopted children. BEM 212, p. 2. A person acting as a parent and the children who live with that person must be in the same group. *Id.* Policy provides the following example:

Emma's grandson Pete (age 15) lives with her and she receives FIP for him as an ineligible grantee. She provides for his care by giving him a place to live, clothing, etc. Emma and Pete must be in the same group.

Id. Since Petitioner is caring for her four grandchildren who live with her, the children and Petitioner must be in the same FAP group.

All countable earned and unearned income available to the group must be considered in determining a group'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), p. 1. 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. 5-7. 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, p. 8. In FAP cases, FIP benefits are considered unearned income and the amount of cash benefit minus a non-IPV recoupment and the amount of initial cash benefit if intended to cover a current or previous month, when FAP benefits have already been authorized for such months. BEM 503 (July 2017), p. 16. The gross income limit for a group size of five (Petitioner plus her four grandchildren) is \$4,798.00, and the net income limit for the same group size is \$2,399.00. RFT 250 (October 2017), p. 1.

In support of its case, the Department presented a FAP-EDG Net Income budget which was reviewed during the hearing. Petitioner is paid bi-weekly, and the Department has properly calculated Petitioner's earned income of \$ [REDACTED] per month. BEM 505, p. 8. Likewise, the Department has properly included Petitioner's monthly FIP benefit rate of \$ [REDACTED] as unearned income. BEM 503, p. 16. After consideration of all income, the group's income falls below the gross income limit for the group size. RFT 250, p. 1.

Next the Department considers applicable deductions and expenses. The group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department properly applied the standard deduction of \$199.00 for a group size of five and the earned income deduction of 20% (\$574.00 for Petitioner). RFT 255 (October 2017), p. 1; BEM 556, p. 3. Petitioner does not pay for a dependent care expense nor does she have a child support expense. Next, the Department considered Petitioner's Excess Shelter Deduction including Petitioner's rent and utility expenses. Petitioner agrees that she has a rental expense of \$ [REDACTED] per month. The Department properly afforded Petitioner the heat and utility standard (H/U) of \$537.00. BEM 554, pp. 14-15; RFT 255, p. 1. After expenses are added together, the total shelter amount is reduced by 50% of the adjusted gross income. BEM 556, pp. 4-5. If the resulting


amount is negative, the group is not afforded an excess shelter deduction. If the amount is positive, the group is afforded an excess shelter deduction up to \$535.00. RFT 255, p. 1; BEM 556, pp. 4-5. Since group's total shelter amount minus 50% of the adjusted gross income is negative, the group is not eligible for an excess shelter deduction. Once all appropriate expenses were considered, the group's Net Income is \$ [REDACTED] which is greater than the Net Income Limit of \$2,399; therefore, the group is not eligible for FAP benefits.

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 closed Petitioner's FAP case based upon excess income over the net income limit.

DECISION AND ORDER

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

AM/



Amanda M. T. Marler
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

Mark Epps
MDHHS-Genesee 6-Hearings

Petitioner

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