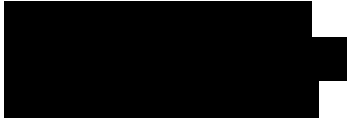




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 29, 2018  
MAHS Docket No.: 18-005003  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. [REDACTED] Cousin, appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Aiesha Evans, Eligibility Specialist.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

**ISSUE**

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

**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 May 3, 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. (Exhibit A, pp. 2-24)
2. On May 9, 2018, the EW completed an interview with Petitioner. (Exhibit A, pp. 25-26)

3. The Department determined Petitioner's FAP application must be denied due to income in excess of the net income limit for the FAP program. (Exhibit A, pp. 28-30)
4. On May 9, 2018, a Notice of Case Action was issued to Petitioner stating FAP was denied because of excess income. (Exhibit A, pp. 31-32)
5. On May 15, 2018, Petitioner filed a hearing request contesting the Department's determination. (Hearing Request)

### **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.

For FAP, the group must have income below the net income limit. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, January 1, 2017, p. 1. For a group size of four, the FAP standard deduction is \$170. RFT 255, October 1, 2017, p. 1.

The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. The Department uses the following methods: multiply weekly income by 4.3; multiply amounts received every two weeks by 2.15; add amounts received twice a month. This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505, October 1, 2017, p. 8.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (August 1, 2017), p. 13. Heat and utility expenses can also be included as allowed by policy. FAP groups that qualify for the heat/utility (h/u) standard do not receive any other individual utility standards. BEM 554, p. 15.

For a group size of four, the FAP net income limit is \$2,050. RFT 250, October 1, 2017, p. 1.

This Administrative Law Judge must review the Department's action under the existing Department policies and has no authority to change or make exceptions to the Department policies. Under the above cited policies, the Department properly determined that Petitioner's family was not eligible for FAP based on income in excess of program limits.

The Department utilized the available income information at the time of the April 9, 2018 determination. On the May 3, 2018, FAP application, Petitioner reported working 24 hours per week at \$35 per hour and being paid bi-weekly. (Exhibit A, p. 16) This was verified with Petitioner during the May 9, 2018, interview. (Exhibit A, pp. 25-26; ES Testimony) After conversion to a standard monthly amount, the Department budgeted \$3,612 for earned income. The Department also budgeted \$13 of unearned income from child support. (Exhibit A, pp. and 28; ES Testimony) This appears to be significantly less than the child support amounts reported on the May 3, 2018, FAP application. (Exhibit A, p. 18) However, the additional child support income would have only made Petitioner's FAP group further over the net income limit.

A total income of \$3625 was budgeted, then reduced by \$723 for the earned income deduction and \$170 for the standard deduction. (Exhibit A, p. 28) The shelter expense of \$1000, as reported on the application and verified during the interview, was considered along with the full heat and utility standard to determine the allowable excess shelter deduction of \$171. (Exhibit A, pp. 19, 25-26, and 29) In the end, the calculated net income of \$2,561 exceeded the applicable FAP net income limit of \$2,050 for the group size of four. (Exhibit A, pp. 28-29)

Two paystubs were submitted showed earnings totaling \$5,018.49 for the pay periods ending April 21, 2018, and May 5, 2018. However, these paystubs were submitted May 15, 2018, therefore this information was not considered when the May 9, 2018, determination was made. (Exhibit A, pp. 33-36) There was some discussion regarding changes with Petitioner's child starting to receive SSI benefits and the group having medical expenses. However, this more recent information was utilized for a subsequent FAP determination, not the May 9, 2018 determination at issue for this appeal. (Petitioner and ES Testimony) If she has not already done so, Petitioner may wish to file a timely hearing request to contest the more recent FAP determination.

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 FAP application due to income in excess of program limits based on the information available at the time of the May 9, 2018, determination.

**DECISION AND ORDER**

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



CL/nr

---

Colleen Lack  
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**

Lori Duda  
30755 Montpelier Drive  
Madison Heights, MI  
48071

Oakland 2 County DHHS- via electronic  
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

