



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 13, 2018
MAHS Docket No.: 18-005709
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 July 3, 2018, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Shanna Ward ES. Department Exhibit 1, pp. 1-94 was received and admitted. Petitioner Exhibit A, pp. 1-22 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's 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. Petitioner was a recipient of FAP benefits receiving \$352.00 per month.
2. On April 16, 2018, Petitioner submitted redetermination paperwork.
3. On May 25, 2018, Notice of Case Action was sent to Petitioner informing her that FAP benefits would close due to excess gross income. (Ex. 1, pp. 12-15)
4. On May 29, 2018, Petitioner requested hearing disputing the closure of FAP benefits. (Ex. 1, p. 2)

5. The Department stated at hearing that they agreed to process fuel receipts as self-employment expense.

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.

SELF-EMPLOYMENT EXPENSES

Allowed

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

Note: Allowable expenses for rental/room and board are different than those listed above; see BEM 504, ALLOWABLE RENTAL EXPENSES.

Not Allowed

Do not enter any of the following as self-employment expenses in Bridges:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments. BEM 502

In this case, the Department agreed to process fuel recipients and redetermine Petitioner's FAP eligibility going back to the date of closure. The parties presented evidence and argument regarding two unresolved issues. First, whether Petitioner was entitled to self-employment expenses deductions for costs associated with her second vehicle. Petitioner argued that she is contractually obligated to have a backup vehicle, and because of that obligation she should be able to deduct business related expenses for the second vehicle. Petitioner testified that she used the backup vehicle three days a week, and the primary vehicle four days a week, based on the weight of her deliveries. The Department argued that expenses related to the second vehicle should not be allowed but cited no policy in support of that position. BEM 502 allows for self-employment expense deductions for interest and principal on loans for equipment and insurance premiums on loans for equipment. Nothing in BEM 502 disallows deductions based on the vehicle being a second vehicle. Petitioner credibly testified at hearing that she uses both vehicles based on the weight of her loads. Both of Petitioner's vehicles are equipment and Petitioner should be able to use the costs related to both vehicles as self-employment expense. BEM 502

The second issue is whether Petitioner should be entitled to deduct self-employment expenses related to her telephone service as a business expense and whether Petitioner provided acceptable verification of that expense. Petitioner provided a bill totaling \$176.19 from Sprint for bill period January 10, 2018, through February 9, 2018. (Ex. 1, p.43) The bill has Petitioner's name and address on it but does not show what phone number it is for or what kind of plan the bill is for. The Department position is that the bill is not acceptable verification because it does not show what number the bill is for or what type of plan the bill is for. The Department pointed out that Petitioner already receives the heat and utility standard which includes telephone service and that if this bill was for the same phone number and service then that would be double dipping. Petitioner must provide verification that the phone service she has through Sprint is for a different phone line than her personal line and that the phone and the service plan are utilized for her self-employment business purposes.

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 failed to

satisfy its burden of showing that it acted in accordance with Department policy when it disallowed self-employment related expenses related to a second vehicle and when it failed to process fuel receipts as self-employment related expenses.

The Department was correct to disallow self-employment expenses related to a phone bill because Petitioner failed to provide adequate verification that the phone and service plan were utilized for business purposes. The Department's denial of self-employment related expense for the Sprint phone bill was proper and correct.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to denial of self-employment expense for the Sprint phone bill and **REVERSED IN PART** with respect to denial of self-employment expense for fuel receipts and denial of expense for expenses related to a second vehicle.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine and rebudget FAP benefits, taking into consideration self-employment expenses for fuel payments, loan payments, and insurance payments for Petitioner's second vehicle.
2. Award Petitioner a supplement for any FAP benefits she is entitled to.

AM/bb



Aaron McClintic
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
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI