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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 19, 2018
MAHS Docket No.: 18-002613
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 April 18, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearing Facilitator.

ISSUE

Did the Department properly determined Petitioner's Food Assistance Program (FAP) benefit amount?

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.
2. On [REDACTED], 2017, Petitioner completed a semi-annual (Exhibit B).
3. On January 23, 2018, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's income (Exhibit F).
4. Petitioner's group consisted of himself, his wife, his two children and his mother.
5. Petitioner had self-employment income.

6. Petitioner's mother had unearned income in the form of Supplemental Security Income (SSI) and State SSI Payments (SSP).
7. On February 21, 2018, Petitioner submitted self-employment income and expense statements, along with a payment card and third-party network transactions document (Exhibit D).
8. On February 27, 2018, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the amount of \$46 per month effective January 1, 2018, ongoing (Exhibit C).
9. On March 7, 2018, Petitioner submitted a request for hearing disputing his FAP benefit amount and his Medical Assistance (MA) 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).

FAP

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 submitted a request for hearing disputing the Department's calculation of his FAP benefit amount. On February 27, 2018, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the amount of \$46 per month effective January 1, 2018, ongoing. The Department presented a FAP budget to establish Petitioner's FAP benefit amount calculation (Exhibit G).

According to the budget, Petitioner's countable self-employment income was determined to be \$2,392 per month. All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. Individuals who run their own businesses are self-employed. BEM 502 (July 2017), p. 1. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. BEM 502, p. 1. The amount of self-employment

income before any deductions is called total proceeds. BEM 502, p. 3. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502, p. 3. Allowable expenses (except MAGI related MA) are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502, p. 3. BEM 502 provides a list of expenses that are allowed when determining self-employment countable income, pp. 3-4.

The Department testified that Petitioner did not submit verification of his self-employment expenses, and therefore, his self-employment proceeds were reduced by 25%. Petitioner confirmed he never submitted receipts verifying his self-employment expenses. As such, the Department acted in accordance with policy by using the 25% figure. The Department testified at the hearing that the figures listed on the self-employment income and expense statements were used (Exhibit D, pp. 1-3) to calculate Petitioner's total monthly proceed amount. Petitioner listed his income was \$2,767.48 for November 2017 and \$1,937 for October 2017. When averaging the figures and reducing by 25%, it does not result in a monthly self-employment income of \$2,392. When reducing both figures individually by 25%, it does not result in a monthly self-employment income of \$2,392. According to the hearing summary, the payment card and third-party network transaction document was used to calculate Petitioner's self-employment proceed amount (Exhibit D, p. 4). The document provides a breakdown of Petitioner's monthly self-employment proceeds. When averaging the monthly income from September 2017 (\$3,346.70); October 2017 (\$3,455.72); and November 2017 (\$3,769.07) and reducing that figure by 25%, it results in a monthly income of \$2,392. Although the Department provided incorrect testimony at the hearing as to what figures were used, the actual calculation of Petitioner's self-employment income properly followed policy.

The Department testified that Petitioner's mother receives SSI benefits in the amount of \$750 per month and SSP benefits in the averaged monthly amount of \$14 (Exhibit E). Therefore, the Department correctly determined Petitioner had a monthly unearned income amount of \$764.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, 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.
- Medical deduction.

BEM 554; BEM 556

There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$479. Petitioner's FAP benefit group size of five justifies a standard deduction of \$199. RFT 255 (October 2017), p. 1.

In calculating the excess shelter deduction of \$98, the Department stated that it considered Petitioner's verified housing expense of \$800 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$537. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$98 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$2,478. Petitioner's adjusted gross income subtracted by the \$98 excess shelter deduction results in a net income of \$2,380. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$46. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

MA

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.

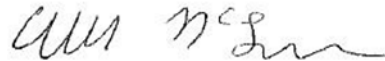
In this case, Petitioner testified that he requested a hearing, in part, due to his children's MA benefit cases being closed. Petitioner stated he was informed by a medical provider that his children did not have MA benefits. However, Petitioner stated his children's MA benefits were no longer at issue. Additionally, the Department provided documentation to establish Petitioner's children both had full-coverage MA benefits (Exhibit A). Petitioner stated he no longer wished to proceed with a hearing regarding his children's MA benefit cases. The Request for Hearing was withdrawn. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

DECISION AND ORDER

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 determined Petitioner's FAP benefit amount. Accordingly, the Department's decision is **AFFIRMED**.

Pursuant to the withdrawal of the hearing request filed in this matter regarding Petitioner's children's MA benefit cases, the Request for Hearing is, hereby, **DISMISSED**.

EM/cg



Ellen McLemore

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) 335-6088; 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

Via Email:

MDHHS-Macomb-20-Hearings
M. Holden
D. Sweeney
M. Best
EQAD
BSC4-Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

