



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 22, 2018
MAHS Docket No.: 18-003793
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 May 21, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Donna Rojas, Family Independence Manager and Jessica Klein, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner's excess shelter deduction when calculating his 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], 2018, Petitioner submitted an application for FAP benefits in lieu of a semi-annual that was due at that time (Exhibit A).
3. On March 23, 2018, the Department sent a Verification Checklist (VCL) to Petitioner requesting verification of his rental expense (Exhibit B).
4. On April 3, 2018, Petitioner submitted a Shelter Verification (Exhibit C).

5. On April 3, 2018, the Department sent Petitioner a Notice of Case Action informing Petitioner that he was approved for FAP benefits in the monthly amount of \$58 effective April 1, 2018, ongoing (Exhibit F).
6. On April 4, 2018, Petitioner submitted a request for hearing disputing the Department's actions.

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 submitted a hearing request to dispute the Department's calculation of his shelter expense. On [REDACTED], 2018, Petitioner submitted an application for FAP benefits. In the application, Petitioner indicated he had a different rental expense than what was previously budgeted (Exhibit E). As a result, the Department sent Petitioner a VCL requesting verification of his rental expense on March 23, 2018. On April 3, 2018, Petitioner submitted a Shelter Verification form. The Department sent Petitioner a Notice of Case Action on April 3, 2018 informing him that he was approved for FAP benefits in the amount of \$58 effective April 1, 2018, ongoing. The Department presented a FAP budget showing the calculation of Petitioner's excess shelter deduction used in determining his FAP benefit amount (Exhibit D), p. 3.

When calculating Petitioner's excess shelter deduction, the Department added the total shelter amount and subtracted 50% of the adjusted gross income, which resulted in an excess shelter deduction of \$160. As part of Petitioner's shelter expense, the Department included a \$430 per month housing expense and the \$32 telephone standard. The Department testified that Petitioner did not receive the heat and utility standard because according to the Shelter Verification, Petitioner's heat and electric are included in the rental expense.

The heat/utility standard (h/u) standard covers all heat and utility costs including cooling expenses. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat/electric is included in the cost of their monthly rent may still be eligible for the h/u standard if: they are billed for excess heat payments from their landlord; they have received a home heating credit in an

amount greater than \$20 for the applicable period; or they have received a Low Income Home Energy Assistance Payment (LIHEAP) or a LIHEAP payment was made on their behalf in an amount greater than \$20 for the applicable period. Additionally, FAP groups who pay cooling (including room air conditioners) are eligible for the h/u standard if they verify their responsibility to pay for non-heat electric expenses. BEM 554 (August 2017), pp. 15-25. FAP groups not eligible for the h/u standard who have other utility expenses or who contribute to the costs of other utility expenses are eligible for the individual utility standards. BEM 554, p. 21.

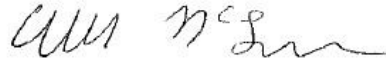
Petitioner confirmed that his utility expenses, with the exception of his phone, are included in his rent. There was no evidence presented that Petitioner is responsible for excess heat payments or for cooling expenses. Therefore, the Department properly excluded the h/u standard from Petitioner's excess shelter deduction calculation.

Petitioner argued that the Department should include the costs he incurs to maintain storage units for his home items. FAP allowable expenses includes: (i) basic shelter expenses such as rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group, property taxes, state and local assessments and insurance on the structure, and home repairs of a home which was substantially damaged or destroyed due to a natural disaster; (ii) the h/u standard or individual utility standards; (iii) utility installation fees charged by the utility provider, excluding deposits; and (iv) well/septic installation and maintenance. BEM 554, pp. 13-25. No where in policy does it provide that a client is entitled to a FAP deduction for the maintenance of storage units. Therefore, the Department properly followed policy when it did not include that expense.

Per policy, the Department correctly determined Petitioner was only entitled to a housing expense and the telephone standard. Therefore, Petitioner's total shelter amount was \$462. \$462 reduced by 50% of the adjusted gross income (which was not in dispute) is \$160. Therefore, the Department correctly calculated Petitioner's excess shelter deduction.

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 excess shelter deduction when calculating his FAP benefit amount. Accordingly, the Department's decision is **AFFIRMED**.



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) 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

Via Email:

MDHHS-Kent-1-Hearings
M. Holden
D. Sweeney
BSC3- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

