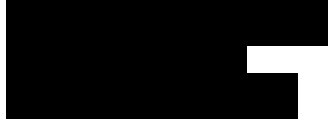




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 5, 2018
MAHS Docket No.: 18-004187
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 June 4, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Hida Murray, Family Independence Specialist/Hearing Coordinator.

ISSUES

Did the Department properly deny Petitioner's Family Independence Program (FIP) application?

Did the Department properly determine 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. On [REDACTED], 20108, Petitioner submitted an application for FIP benefits.
2. Petitioner was an ongoing FAP recipient.
3. On [REDACTED], 2018, an interview was conducted with Petitioner related to the FIP application.
4. Petitioner's household consisted of herself and her minor child.

5. Petitioner had unearned income in the form of child support (Exhibit C).
6. On April 16, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied and her FAP benefit amount was decreasing to \$293 per month effective May 1, 2018, ongoing (Exhibit A).
7. On April 23, 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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner submitted an application for FIP benefits on [REDACTED], 2018. An interview was conducted with Petitioner on [REDACTED], 2018 related to the FIP application. On April 16, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied due to excess income. The Department presented a FIP budget to establish that Petitioner exceeded the income limit for the FIP program (Exhibit D).

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3. In this case, the Department testified that there were two individuals in Petitioner's FIP group. Based on a certified FIP group size of two, the applicable payment standard is \$403. RFT 210 (April 2017), p. 1.

At the application for FIP benefits, the Department applies the qualifying deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The qualifying deficit test compares (i) the group's budgetable income for the income month decreased by the qualifying earned income disregard to (ii) the certified group's

payment standard for the benefit month, or, in this case, \$403. BEM 518, p. 3. The qualifying earned income disregard reduces each person's countable earnings by \$200 and then by an additional 20% of the person's remaining earnings. BEM 518, p. 5. Additionally, the Department will deduct \$50 of received voluntary or direct child support. BEM 518, p. 2. If the qualifying deficit test results in no deficit, the client is ineligible for FIP for the benefit month. BEM 518, p. 3.

Petitioner's household income consisted solely of child support payments. When calculating child support income, the Department uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 4. If there are known changes that will affect the amount of the payments in the future, the Department will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5.

According to the budget provided, the Department determined Petitioner's child support income was \$716.54. The Department presented Petitioner's child support Consolidated Inquiry Report. The document showed that Petitioner received child support income in the amount of \$928.69 in January 2018; 610.46 in February 2018; and 610.46 in March 2018. When averaging the amount of child support Petitioner received in the 3 months previous to her application, it results in a monthly amount of \$716.54. Therefore, the Department properly determined Petitioner's household income.

Petitioner's \$716.54 monthly income amount minus the \$50.00 child support exclusion results in \$666.54 in countable income. Petitioner's monthly countable income well exceeds Petitioner's payment standard of \$403. Therefore, the Department properly concluded that Petitioner is not eligible for FIP benefits.

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, when determining Petitioner's eligibility for FIP benefits, the Department discovered she was receiving more child support than what was previously budgeted in her FAP benefit case. The Department updated Petitioner's child support income, which resulted in her FAP benefits being reduced to \$293 per month. The Department presented Petitioner's gross income test budget and excess shelter deduction calculation to establish the factors that were considered when calculating Petitioner's FAP benefit amount (Exhibit E).

As stated above, the Department determined Petitioner's sole household income consisted of child support. For FIP and FAP cases, child support income is calculated in the same way. Therefore, the Department properly determined Petitioner's unearned income amount was \$716.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2017), p. 1; BEM 556 (July 2013), p. 3.

There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care and child support expenses. Petitioner had no earned income, and thus, was not entitled to the earned income deduction. Petitioner's FAP benefit group size of two justifies a standard deduction of \$160. RFT 255 (October 2017), p. 1. After subtracting the allowable deductions, Petitioner's gross income is \$556.

In calculating the excess shelter deduction of \$361, the Department stated that it considered Petitioner's statement in her [REDACTED], 2018 interview that her annual property taxes of \$1,226 had not changed and that she was responsible for various utilities, including gas and electric, entitling her to the heat/utility (h/u) standard of \$537. BEM 554, pp. 14-15. The Department divided Petitioner's \$1,226 annual property tax amount by 12 to obtain a monthly housing expense of 102.17. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% of the adjusted gross income, which resulted in an excess shelter deduction of \$361 per month.

Petitioner testified that she believed her yearly property taxes were higher than \$1,226. However, Petitioner did not provide proof of the expense. Petitioner also stated she pays water, electric, gas and phone utilities, which added together exceed the amount of child support income that she receives. Petitioner argued that each of the utilities should be included in her budget.

The heat/utility (h/u) standard covers all heat and utility costs including cooling. BEM 554, p. 15. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. BEM 554, p. 15. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15.

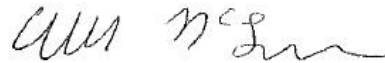
As Petitioner qualified for the h/u standard, she was not entitled to the other individual utility standards. Additionally, Petitioner did not submit any proof that her property taxes were higher than what was budgeted by the Department. Therefore, the Department properly calculated Petitioner's excess shelter deduction to be \$361 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. As stated above, Petitioner's adjusted gross income was \$556. Petitioner's adjusted gross income subtracted by the \$361 excess shelter deduction results in a net income of \$195. 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 \$293. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

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 denied Petitioner's FIP application and determined her FAP eligibility. 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-Wayne-19-Hearings
B. Sandborn
B. Cabanaw
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

