



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: September 7, 2018  
MAHS Docket No.: 18-008057  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** John Markey

**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 September 5, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Christina Williams, Assistance Payments Worker. During the hearing, a 12-page packet of documents was offered and admitted as Exhibit A, pp. 1-12.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits, effective September 1, 2018?

**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 in a FAP group of three.
2. On July 21, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP benefits would be reduced from \$84 to \$82 per month as a result of a universal change to the standard deduction from \$160 per month to \$154 per month. Exhibit A, pp. 4-6.

3. On August 2, 2018, Petitioner filed a hearing request with the Department objecting to the Department's calculation of his monthly FAP 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).

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 the present case, the Department issued to Petitioner a Notice of Case Action, dated July 21, 2018, informing Petitioner that his monthly FAP benefits were being reduced from \$84 to \$82 "due to a change in the FAP standard deduction." Prior to August 1, 2018, the monthly standard deduction for a group of three was \$160. RFT 255 (October 2017), p. 1. Effective August 1, 2018, the monthly standard deduction for a group of three was reduced to \$154. RFT 255 (August 2018), p. 1. As a result of this change, Petitioner's eligibility for FAP benefits was affected, and Petitioner filed a request for hearing.

Regulations governing the hearing and appeal process for recipients of FAP benefits in Michigan who, as a group, are affected by a federal or state-initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(2) states that "[a] hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation."

Similarly, the Department's policy provides that the Michigan Administrative Hearing System will not grant a hearing regarding the issue of a mass update required by state or federal law unless the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600 (August 2018), p. 8.

Petitioner does not have a right to protest the reduction of the standard deduction that caused a \$2 per month reduction in his FAP benefits. However, BAM 600 does provide him with the right to a hearing contesting the current level of benefits.

The Department calculated Petitioner's FAP benefit amount by taking into account Petitioner's reported and verified income and expense information. Petitioner had total

income of [REDACTED], all of which was unearned. The standard deduction of \$154 was then taken out, resulting in adjusted gross income of [REDACTED]. Petitioner did not report any child care, medical, or child support expenses. Thus, those deductions are not applicable.

However, Petitioner is eligible for the excess shelter deduction. Petitioner had housing costs of \$725 and was eligible for the h/u standard of \$537. Added together, Petitioner had monthly shelter expenses of \$1,262. The excess shelter deduction is calculated by subtracting from the \$1,262 one half of the adjusted gross income, which is [REDACTED]. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is [REDACTED], which the Department properly calculated as Petitioner's excess shelter deduction. Petitioner's net income is then calculated by subtracting the excess shelter deduction ([REDACTED]) from the adjusted gross income ([REDACTED]), which equals [REDACTED].

The Food Assistant Issuance Table shows \$82 in benefits for [REDACTED] net income for a household of three. RFT 260 (October 2017), p. 19. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits, effective September 1, 2018.

During the hearing, Petitioner testified that his heat and utility expenses were more than the \$537 h/u standard applied to his case. The h/u standard covers all heat and utility expenses, except for "actual utility expenses," which are defined as only: (1) utility installation charges; (2) water well installation and maintenance; and (3) septic installation and maintenance. BEM 554, (August 2017), pp. 15, 24. FAP groups who are eligible for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. Petitioner was eligible for the h/u standard and none of the expenses he alleged to have were "actual utility expenses" that can be considered in addition to the h/u standard. Furthermore, it was clear that Petitioner did not, in fact, show evidence of utility bills above the h/u standard of \$537 anyway. Thus, based on the evidence presented, the Department's application of the h/u standard was appropriate.

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



JM/dh

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**John Markey**  
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**

Jeanenne Broadnax  
25637 Ecorse Rd.  
Taylor, MI 48180

Wayne County (District 18), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

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