



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: November 13, 2018  
MAHS Docket No.: 18-008655  
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 October 31, 2018, from Lansing, Michigan. Petitioner appeared. Also appearing on behalf of Petitioner were [REDACTED] and [REDACTED]. The Department of Health and Human Services (Department) was represented by Todd Barrus, Assistance Payments Supervisor. During the hearing, 13 pages of documents were offered and admitted as Exhibit A, pp. 1-13.

**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 in an ongoing recipient of FAP benefits.
2. On April 23, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP benefits were being reduced to \$95 per month because he was no longer paying his Medicare Part B premium of \$134 per month. Exhibit A, pp. 1-4.

3. On July 31, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his FAP benefits were being reduced to \$93 per month. Exhibit A, pp. 7-10.
4. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the reductions in 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.

#### **APRIL 23, 2018 NOTICE OF CASE ACTION REDUCING MONTHLY FAP BENEFITS**

Clients have the right to a hearing to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. Upon receiving a request for hearing, the Department will forward the matter to the Michigan Administrative Hearing System (MAHS) for a hearing before an Administrative Law Judge (ALJ). The ALJ has jurisdiction to hear a case involving any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.  
BAM 600 (January 1, 2018), page 5.

However, the ALJ only has jurisdiction to hear a timely and properly submitted request for hearing. BAM 600, p. 6, provides in relevant part as follows:

The client or [authorized hearing representative] has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days.

The Notice of Case Action informing Petitioner of the Department's decision to reduce Petitioner's monthly FAP benefits to \$95, effective June 1, 2018, was issued on April 23, 2018. Petitioner requested a hearing on [REDACTED], 2018, beyond the 90-day time limit. Because Petitioner's hearing request was untimely with respect to that reduction of his monthly FAP benefits, whether or not the Department properly reduced those benefits is not an issue that this ALJ has the authority to hear or issue a decision upon.

### **JULY 31, 2018 NOTICE OF CASE ACTION REDUCING MONTHLY FAP BENEFITS**

Petitioner also objected to the Department's reduction of his monthly FAP benefits from \$95 to \$93, effective September 1, 2018. Petitioner was informed of that decision via a July 31, 2018, Notice of Case Action. As Petitioner's [REDACTED], 2018, hearing request was within 90 days after receiving the Notice of Case Action, it was timely, and the matter is ripe for adjudication.

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 \$783, all of which was unearned. The standard deduction of \$154 was then taken out, resulting in adjusted gross income of \$629. 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 \$75.52 and was eligible for the h/u standard of \$537. Added together, Petitioner had monthly shelter expenses of \$613. The excess shelter deduction is calculated by subtracting from the \$613 one half of the adjusted gross income, which is \$314. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$299, which the Department properly calculated as Petitioner's excess shelter deduction. Petitioner's net income is then calculated by subtracting the excess shelter deduction (\$299) from the adjusted gross income (\$629), which equals \$330.

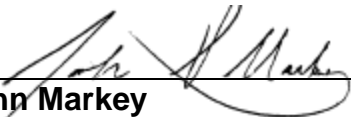
The Food Assistant Issuance Table shows \$93 in monthly FAP benefits for \$330 net income for a household of one. RFT 260 (October 2017), p. 5. This is the amount determined by the Department and is correct. The Department acted in accordance with Department policy when it determined Petitioner's FAP benefits, effective September 1, 2018.

### **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, effective September 1, 2018. 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**

Traci Croff  
40 Care Drive  
Hillsdale, MI 49242

Hillsdale County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]