



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: November 29, 2018  
MAHS Docket No.: 18-010865  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 28, 2018, from Lansing, Michigan. Petitioner, ██████ ██████ appeared and represented himself. Hearing Facilitator, Adam Slate, appeared and represented the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 65-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits?

**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 ██████ ██████ 2018, Petitioner applied for FAP.
2. Petitioner's income is \$██████████ per month from social security. Petitioner has Medicare Part B, and his premium is paid by the Medicare Savings Program. Petitioner pays \$██████████ per month for rent, which includes his utilities.
3. On August 10, 2018, the Department issued a Notice of Case Action which notified Petitioner that he was approved for FAP benefits. The Department approved Petitioner for \$██████████ per month from August 2, through August 31,

2018 based on a group size of 1, and the Department approved Petitioner for \$ [REDACTED] per month from September 2018 through July 2020 based on a group size of 1. The Department budgeted a medical expense of \$ [REDACTED] for a Medicare Part B premium when the Department calculated Petitioner's monthly FAP benefit.

4. On August 16, 2018, the Department updated its records to reflect that Petitioner's Medicare Part B premium is paid by the Medicare Savings Program.
5. On August 17, 2018, the Department issued a Notice of Case Action which notified Petitioner that his FAP benefit was decreased to \$ [REDACTED] per month effective September 1, 2018, due to a reduction in his allowable medical expense amount. The Department removed a deduction for Petitioner's Medicare Part B premium, which caused Petitioner's income to increase and his FAP benefit to decrease.
6. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute the Department's decision.

### **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.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2017), BEM 213 (January 1, 2018), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2017). Here, there is no evidence that the Department did not properly determine Petitioner's FAP benefit. Petitioner did not present any evidence to establish that his household income or allowable expenses were different than those used by the Department, and Petitioner did not present any evidence to establish that his group size was greater than that used by the Department. Based on a review of the budget used by the Department and the applicable Food Issuance Table, the Department used the correct standard deductions and correctly determined Petitioner's maximum FAP benefit amount based on his countable household income and group size.

Petitioner's FAP benefit amount was decreased because the Department corrected an error in its budget. Since Petitioner's Medicare Part B premium is paid by the Medicare Savings Program as opposed to being paid out of pocket by Petitioner, the Department correctly disallowed a deduction for the premium expense. This caused the Department to remove a medical expense deduction which it had improperly budgeted. The removal of the medical expense deduction increased Petitioner's countable household income which then decreased the maximum FAP benefit amount that Petitioner was eligible for. The Department's actions were in accordance with its policies and the applicable law.

### **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 did act in accordance with its policies and the applicable law when it decreased Petitioner's food assistance benefit amount.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



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Jeffrey Kemm  
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**

Renee Olian  
322 Stockbridge  
Kalamazoo, MI  
49001

Kalamazoo County DHHS- via electronic  
mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

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