



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: March 6, 2019
MAHS Docket No.: 19-000957
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 March 4, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearings Facilitator.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 and her husband each received a Supplemental Security Income (SSI) benefit of \$ [REDACTED] in 2018, and \$ [REDACTED] beginning January 2019.
2. Petitioner also received child support in the amount of \$ [REDACTED] in August and October 2018, but did not receive any child support payments in September or November 2018.
3. On September 26, 2018, the Department received a letter signed by [REDACTED] and dated September 24, 2018, indicating that Petitioner paid \$ [REDACTED] per month for rent.

4. On October 5, 2018, the Department received a copy of Petitioner's lease with [REDACTED], signed on July 18, 2018, indicating Petitioner's rent was \$ [REDACTED] per month.
5. On October 31, 2018, the Department received a letter from Petitioner's friend indicating that the friend has been assisting Petitioner and her husband with utility bills when needed, and has paid the down payment, as well as, the car note for Petitioner's new vehicle, estimating that the friend gives them about \$ [REDACTED] per month depending on the total amount of the bills.
6. On December 8, 2018, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit would decrease to \$ [REDACTED] per month effective January 1, 2019, because her net unearned income amount had changed.
7. On January 2, 2019, Petitioner requested a hearing disputing the calculation of her FAP benefit rate.

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 disputes the calculation of her FAP benefit rate which was reduced after consideration of all reported changes in income and expenses.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9.

The Department testified and Petitioner agrees that she and her husband each received an SSI benefit of \$[REDACTED] per month effective January 2019. Since this income is received on a monthly basis, no further calculation is required to standardize it.

Petitioner also receives child support income for her child. Child support income is averaged over the past three calendar months unless changes are expected. BEM 505, p. 4. If payments for the past three months vary, the Department is required to clarify whether the pattern is expected to continue, or if there are known changes. *Id.* If the irregular pattern is expected to continue, the average of the last three months should be used. BEM 505, p. 5. The Department evaluated Petitioner's eligibility in December 2018 for January 2019. At the time of evaluation, Petitioner had not received a child support payment in September or November 2018, but received one payment of \$[REDACTED] in October 2018. Therefore, the average payment over the three months between September and November 2018 was \$[REDACTED] and this is the amount to be budgeted for child support income.

Petitioner also receives \$[REDACTED] per month from a friend to assist with utility payments as well as a car note. A donation to an individual by family or friends is considered unearned income of the Department's client. BEM 503, p. 11. The gross amount actually received is counted if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503, p. 11. No evidence was presented that Petitioner's friend was part of any eligibility group with Petitioner. Therefore, \$[REDACTED] per month must be considered as Petitioner's unearned income.

Therefore, total household monthly gross income is \$[REDACTED]

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner and her husband are SSI recipients; therefore, they are considered Senior, Disabled, Disabled Veteran (SDV) group members and are 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.
- Medical deduction.

BEM 550 (January 2017), pp. 1-1; BEM 554 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

The Department budgeted \$0.00 for a child support and dependent care expense. Petitioner did not dispute that that household does not have these expenses. The Department also budgeted the standard deduction of \$198.00 for a group size of five in accordance with Department policy. RFT 255 (August 2018), p. 1. Finally, no evidence was presented that Petitioner or her husband had any eligible medical expense

deductions. After consideration of all of these expenses, the group's Adjusted Gross Income (AGI) was \$[REDACTED]

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. The Department budgeted a rental expense of \$[REDACTED]. Petitioner testified that her rental expense is \$[REDACTED] consistent with the lease submitted in October 2018. Although the lease was submitted in October 2018, it was signed in July 2018; whereas, the letter from Petitioner's landlord was signed and submitted to the Department in September 2018. Petitioner did not provide any documentation to support a rental expense of \$[REDACTED] at the hearing. Since the letter from the landlord was signed by the landlord most recently, this is the value of rent which must be considered because there may have been changes to the lease agreement between July and September 2018 which are not reflected by the July 2018 lease. In addition to the rental expense, the Department properly afforded Petitioner the Heat and Utility (H/U) standard of \$[REDACTED] BEM 554, pp. 14-15; RFT 255, p. 1. Once the rental expense and H/U standard are added together, 50% of Petitioner's AGI is subtracted to achieve Petitioner's Excess Shelter Deduction. Therefore, Petitioner's Excess Shelter Deduction is \$[REDACTED] BEM 554, p. 1.

Next, the Excess Shelter Deduction is subtracted from Petitioner's AGI to achieve her Net Income of \$1,411.00. Finally, the net income amount is compared against the FAP Issuance Table to determine Petitioner's benefit rate of \$[REDACTED] for a group size of five. RFT 260 (October 2018), p. 20.

After reviewing all of the evidence presented, the Department afforded Petitioner a benefit rate greater than she was entitled to receive. Since this results in a benefit to Petitioner, no changes will be made for purposes of this decision.

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 policy in calculating Petitioner's FAP benefit rate.

DECISION AND ORDER

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



AMTM/jaf

Amanda M. T. Marler
Administrative Law Judge
for Robert Gordon, 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

Dawn Tromontine
MDHHS-Macomb-36-Hearings

Petitioner

[REDACTED]
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