



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 10, 2017
MAHS Docket No.: 17-000548
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 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 February 9, 2017, from Detroit, Michigan. The Petitioner was represented by herself. An Interpreter, [REDACTED], appeared and served as a Bengali translator. The Department of Health and Human Services (Department) was represented by Karina Littles, Hearing Facilitator, and Tiffany Kelley, Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's Food Assistance Program (FAP) benefits due to excess group income?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for FAP benefits on [REDACTED] 2016, and was approved for expedited FAP for the remainder of the application month for December 2016. Thereafter, the Petitioner's FAP application was denied effective January 1, 2017, due to excess income. Exhibit A.
2. The Department issued a Notice of Case Action dated December 28, 2016, approving the Petitioner for FAP for the period December 14, 2016, through December 31, 2016, for \$[REDACTED]. The Department denied the Petitioner for FAP ongoing, effective January 1, 2017. Exhibit A.

3. The Petitioner's husband is employed and is paid weekly and receives gross pay of \$[REDACTED] per week. Exhibit C. The Petitioner provided four pay stubs to the Department, which the Department used to calculate FAP benefits. Exhibit C.
4. The Petitioner's FAP group, as determined by the Department, was a three-member group. The Petitioner's daughter, age [REDACTED], is a full-time student and lives in the household. The Petitioner's daughter is not employed and was not included as an FAP group member because the Department found her to be an ineligible student.
5. The Petitioner pays for heat and electricity and was credited with a heat allowance of \$526 and a mortgage expense of \$677.20. Exhibits D and F.
6. The Petitioner receives Supplemental Security Income (SSI) in the amount of \$725 and a State SSI quarterly supplement of \$14 for a total of \$739 a month in unearned income. Exhibit E.
7. The Petitioner requested a timely hearing on [REDACTED] 2017, protesting 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).

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, the Department approved the Petitioner's FAP application on an expedited basis, and after receiving verifications of income and housing expenses, denied the application, effective January 1, 2017, due to excess income. Exhibit A. The Petitioner and her spouse both receive income; the Petitioner receives SSI in the amount of \$739 monthly and her husband receives earned income from employment in the gross amount of \$[REDACTED] weekly. The Petitioner's FAP benefits were calculated on a group size of three members. The Petitioner's [REDACTED]-year-old daughter, who is a full-time student, lives with Petitioner and was excluded by the Department as a group member because she is not working.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1–

4. The Department considers the gross amount of money earned or received from RSDI Social Security income due to disability. BEM 503 (July 2016), pp. 31-32.

The Department concluded that Petitioner had unearned income of \$739 based upon SSI of \$725 and the state SSI quarterly supplement of \$14 for a total of \$739. The total unearned income was not disputed by the Petitioner. The Department also presented a State Online Query (SOLQ) in support of its testimony. Exhibit E. Therefore, the Department properly calculated Petitioner's gross unearned income. The Petitioner's husband also receives earned income paid weekly from his employment in the amount of \$[REDACTED] Exhibit C. The pay stubs provided to the Department by Petitioner confirmed this weekly amount.

In addition, the Department correctly determined earned income. Using the four checks issued to Petitioner in November and December 2016 in the amount each week of \$[REDACTED], the Department determined the gross monthly income for the month of December 2016 was \$[REDACTED] Exhibit B. The gross income for the month is calculated by taking the weekly average amount time 4.3. ($\$[REDACTED] \times 4.3 = \$[REDACTED]$). Thus, the Department using pay stubs properly calculated earned income for December 2016, which is the income which should be used to calculate January 2016 FAP benefits. Exhibit B.

The next step requires that the earned income deduction of 20% be deducted from the gross earned income and the standard deduction is also deducted from the gross income to get total adjusted gross income, ($\$[REDACTED] \times 20\% = \477). Once the earned income deduction of \$477 and the standard deduction of \$151 are deducted from the total gross income of \$[REDACTED] (includes earned and unearned income), the final adjusted gross income is \$[REDACTED]. ($\$[REDACTED] - \$477 - \$151 = \$[REDACTED]$).

The deductions to income on the net income budget were also reviewed. Petitioner has an FAP group of three members and is a senior/disabled/veteran (SDV) member of the group because she receives SSI. BEM 550 (February 2016), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

The Department used shelter expenses and the standard deduction of \$151 based on a group size of three members when calculating benefits. The Department also applied an earned income deduction of \$477 as explained above.

The excess shelter calculation was also reviewed at the hearing. All of the housing expenses are first added together which in this case is the total of mortgage in the amount of \$677.20 and \$526.00 for heat and utility standard for a total housing expense of \$1,203.00. Exhibit D. RFT 255 (October 1, 2016), p. 1. Next, one half of the adjusted gross income or \$[REDACTED] is then deducted from the total housing expenses to get the excess shelter deduction, which in this case is \$0. Because one half the adjusted gross income of \$[REDACTED] is more than the shelter expense, the difference is 0. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was not eligible for an excess shelter deduction. BEM 556, pp. 4-5; RFT 255, p. 1. Thus, based upon the net monthly group income of \$[REDACTED], the FAP group of three persons with a net income of \$[REDACTED] is not eligible for FAP because the FAP group's income exceeds the Net Income Limit for a FAP group of three, which is \$[REDACTED]. RFT 250 (October 1, 2016), p. 1.

At the hearing, the Petitioner contended that her FAP group should include her daughter who is [REDACTED] years of age and attends school full time. The Department did not include the Petitioner's daughter as an FAP group member because it determined that she was an ineligible student.

Department policy found in BEM 245 provides guidance regarding student status:

FAP Only

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs **regardless** of whether a diploma is required. BEM 245 (October 1, 2015) p. 3-4

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A Job Training Partnership Act (JTPA) program.
 - A program under section 236 of the Trade Readjustment Act of 1974 us 19 USC 2341, et seq.

- Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- **Employed for at least 20 hours per week and paid for such employment.**
- **Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.**
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year. BEM 245 p. 4

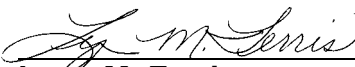
Based upon the Petitioner's testimony that her daughter did not work, and the Department's testimony that it reviewed all possible eligibility criteria for student eligibility with the Petitioner at the prehearing conference held in this case, it is determined that the Department correctly determined that the Petitioner was an ineligible student and not entitled to be included as an FAP group member.

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 the Petitioner's FAP application due to excess income.

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

LMF/jaf



Lynn M. Ferris

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) 335-6088; 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

David Garnes
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48212

Petitioner

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