



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: July 12, 2017  
MAHS Docket No.: 17-007035  
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; 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 July 5, 2017, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Brianne Ecoles, Eligibility Specialist.

### **ISSUE**

Did the Department properly calculate the Petitioner's 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. The Petitioner completed a redetermination for March 2017 on March 21, 2017, which was processed by the Department and used to determine earned and unearned income for Petitioner's FAP benefit calculation.
2. The Petitioner's redetermination reported annual income this year of \$[REDACTED], and also reported employment with the [REDACTED] earning gross pay of \$[REDACTED] biweekly with a start date of February 1, 2017. As part of the redetermination, the Petitioner presented an Earnings Statement from [REDACTED] with a pay date of January 27, 2017 and a pay stub from [REDACTED] with a pay date of February 1, 2017. Exhibit A and Exhibit B.

3. The Petitioner advised his caseworker that [REDACTED] employment was seasonal at the redetermination interview and was requested to obtain a letter from the employer. The employer advised Petitioner that such a letter would end Petitioner's employment with the company. On April 13, 2017, the Petitioner provided the Department with his time sheets from the company for the last 3 years to demonstrate that the employment was from December 15, through January 19 each year. Petitioner Exhibit 1.
4. The Department issued a Notice of Case Action on March 29, 2017, approving the Petitioner for \$16 in FAP benefits effective April 1, 2017. Exhibit L.
5. The Petitioner has ongoing employment with the [REDACTED] at \$ [REDACTED] hourly for 16 hours a week. The Department used \$ [REDACTED] for the biweekly income when calculating the Petitioner's FAP benefits. The [REDACTED] pay for March 2017 was \$ [REDACTED]. Exhibit E.
6. The Department calculated the Petitioner's employment income for [REDACTED] as \$ [REDACTED]. Exhibit G.
7. The Petitioner also receives SSI, which fluctuates and began around March 1, 2017. The Department used unearned SSI income of \$301 when calculating the Petitioner's FAP benefits. Exhibit K.
8. The Department used housing costs of \$100 for rent, \$33 for phone allowance and a FAP group size of one. Exhibits K and L.
9. The Petitioner pays rent only and has no utility expense.
10. After processing the Petitioner's redetermination, the Department reduced the Petitioner's FAP benefits to \$16 a month.
11. The redetermination used earned income of \$ [REDACTED] and unearned income of \$301. For total income of \$ [REDACTED] Exhibit K.
12. The Petitioner requested a timely hearing on [REDACTED] 2017, protesting the Department's actions. Petitioner Exhibit 1.

### **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 reduced the Petitioner's FAP benefits after completion of a redetermination for March 2017. The Department issued a Notice of Case Action on March 29, 2017, reducing the Petitioner's FAP benefits to \$16.00 a month. Exhibit L. The Department presented a FAP budget for April 2017 which was reviewed at the hearing. The earned income in the budget was disputed by Petitioner, due to the fact that his seasonal employment income for [REDACTED] was included in the budget even though it had ended. The Petitioner testified that he worked at the Detroit Auto Show for [REDACTED] every year as a seasonal employee. This testimony was also substantiated by 3 years of timesheets provided to the Department with his request for hearing. Petitioner Exhibit 1.

The Petitioner advised his then caseworker, during the redetermination interview, that the [REDACTED] employment had ended and was asked to provide a letter from the employer indicating the employment ended. The Petitioner did provide proof to the Department that the employment was seasonal after the redetermination had been processed. The proof of seasonal employment was based upon 3 years of timesheets. A phone number and an email address were also provided for Petitioner's supervisor so the Department could make a collateral contact with the employer. It appears that the employment information was received well after the redetermination, and was received on or about May 25, 2017, as evidenced by the Department's date stamp. Petitioner Exhibit 1. At the hearing, the undersigned incorrectly determined the employment information was received April 13, 2017, but upon further review has decided that there is no proof that the time sheets were faxed to the Department on that date but were provided on May 25, 2017.

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 SSI social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The Department's FAP budget for April 2017 is correct in several respects, namely earned income. The Department determined earned income to be \$[REDACTED] based upon \$[REDACTED] from [REDACTED] and \$[REDACTED] from [REDACTED]. (See Exhibit E and Exhibit G). The Department was required to use the [REDACTED] income because the Petitioner did not provide evidence that this employment was seasonal and had ended until well after the redetermination certification for March 2017. Thus, it is determined that the Department correctly included the income. In general, recipients of benefits have 10 days to report loss of employment or change in circumstance which would affect the benefit amount or eligibility for benefits. See BEM 105 (January 2017). The ending of

this employment was not made known to the Department until the redetermination interview. The redetermination as completed by Petitioner does not indicate that the [REDACTED] employment ended. Exhibit B. In addition, the housing expenses were correct based upon the evidence and correctly included rent of \$100 and a phone allowance of \$33. The standard deduction of \$151 for a group size of one person is also correct. RFT 255, (October 2016), p. 1.

However, after reviewing the April 2017 FAP budget at the hearing, the unearned income of \$301 could not be substantiated based on the evidence presented. The Petitioner began receiving SSI from the Social Security Administration in March 2017. The SSI income shown on the Department's SOLQs fluctuated dramatically from month to month. However, both of the SOLQs show \$197 in SSI being received in March 2017. (See Exhibit C and M). Because the use of \$301 as the unearned income amount could not be explained, the Department did not meet its burden to demonstrate that the FAP benefit as calculated for April 2017 is correct.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Petitioner's April 2017 FAP benefits because the unearned income was not substantiated by the evidence.

### **DECISION AND ORDER**

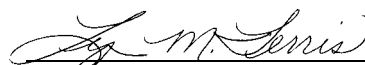
Accordingly, the Department's decision is

#### **REVERSED.**

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate the Petitioner's FAP benefits for April 2017 and redetermine the unearned income.
2. The Department shall issue a FAP supplement to the Petitioner, if the Petitioner is otherwise entitled to receive same in accordance with Department policy.

LMF/hw



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**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**

MDHHS-Wayne-57-Hearings  
BSC4-HearingDecisions  
FAP

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]