



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: August 8, 2017  
MAHS Docket No.: 17-008710  
Agency No.: ██████████  
Petitioner: ██████████

**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 31, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Gwendolyn Wilson, FIS.

**ISSUE**

Did the Department properly deny the Petitioner's Food Assistance (FAP) application?

Did the Department correctly calculate the Petitioner's Medical Assistance (MA) deductible?

**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 filed an application for Food Assistance on ██████████, 2017 and an interview was completed with the Department on May 18, 2017.
2. On May 26, 2017, the Department issued a Notice of Case Action advising Petitioner that her FAP application was denied effective May 17, 2017 due to excess income. Exhibit 1

3. Due to an decrease in income, the Petitioner submitted new pay stubs on June 6, 2017. The Department completed a budget finding Petitioner eligible for \$15 for May 2017, because her Cash assistance grant of \$274 a month was not included and denied FAP benefits for June 1, 2017 due to excess income. Exhibit 3 and Exhibit B
4. The Petitioner provided pay stubs to the Department for [REDACTED] on June 6, 2017. The Petitioner is paid biweekly. The Petitioner has a FAP group of 3 members. Exhibit 6
5. A Verification of Employment dated May 18, 2017 was completed for VPS on June 6, 2017. Exhibit 5
6. On June 8, 2017, the Department issued a Notice of Case Action approving the Petitioner for FAP of \$15 for May 2017 and denying the Petitioner's application for FAP effective June 1, 2017. Exhibit 2
7. The Department also determined that Petitioner was eligible for medical assistance subject to a deductible of \$663. Exhibit 8. The Department initially determined the deductible amount was \$803 and thereafter recalculated the deductible to be \$663.
8. 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.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner applied for FAP on [REDACTED], 2017 and the application was initially denied due to excess income. Thereafter, the Petitioner was found eligible for the period May 15-31, 2017 for FAP benefits in the amount of \$15 and then denied due to excess income on June 8, 2017 effective June 1, 2017. The Petitioner presented the following pay stubs which were used to determine her eligibility for FAP: February 24, 2017 \$[REDACTED]; April 7, 2017, \$[REDACTED]; May 5, 2017, \$[REDACTED]; May 19, 2017, \$[REDACTED] and June 2, 2017, \$[REDACTED]. Exhibit 6. The Department presented a FAP budget for the period May 17, 2017 through May 31, 2017, which was reviewed at the hearing. Exhibit 3

The pay stubs provided which were used to calculate the benefits should be the last thirty-day period. Adding the pays for April 7, May 5, May 19 and June 2, results in gross income of \$[REDACTED]. The pays are added together and divided by the number of pay stubs considered and then multiplied by 2.15 because the Petitioner is paid bi-weekly. The Petitioner confirmed a FAP group of 3

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 2014), pp. 1 – 4. The Department considers the gross amount of money earned from employment in the calculation of earned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group consists of three members. BEM 550 (February 2014), pp. 1-2.

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

The budget for May 17, 2017 presented at the hearing used earned income of \$[REDACTED] or a group of 3 persons. As stated above using the last 30 days of pay stubs results in income of \$[REDACTED] (slightly lower than the Department's number). In calculating adjusted gross income, the Petitioner is entitled to a standard deduction of \$151 based upon a group size of 3. RFT 255 (October 2014), p. 1. Earned income is also reduced by 20% as the Department is required to credit earnings with an earned income deduction.

The Petitioner is paid bi-weekly. Department policies are found in BEM 505 and require that the average weekly or biweekly check be determined by adding the checks together and dividing by number of checks. Once this amount is determined it is either multiplied by 2.15 if the checks are earned bi-weekly, or 4.3 if the checks are earned weekly.

In addition, the Department correctly determined earned income. Using the four checks issued to Petitioner in April and May the checks total \$ [REDACTED] ( $\$ [REDACTED] + \$ [REDACTED] + \$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] \div 4 = \$ [REDACTED]$ ). The gross income for the month is  $\$ [REDACTED] \div 4 = \$ [REDACTED] \times 2.15 = \$ [REDACTED]$ . The earned income using pay stubs calculated gross earned income for May 2017 of \$ [REDACTED] Exhibit 3. The next step requires that the earned income deduction of 20% of earned income and the standard deduction be deducted from the income total ( $[REDACTED] \times 20\% = \$ [REDACTED]$  round to \$ [REDACTED]). Once the earned income deduction and the standard deduction of \$151 are deducted the adjusted gross income is \$ [REDACTED]

The next step requires that the excess shelter deduction be determined. In this case, there were no shelter expenses utilized as none were provided. A FAP group of three persons with a net income of \$ [REDACTED] is entitled to food assistance benefits of \$35, which when prorated from the [REDACTED], 2017 application is reduced to \$15. RFT 260 (October 1, 2015) p. 22. Although the Department used a higher income figure by \$8, the difference does not affect the benefit amount outcome. Using the same calculation formula for June 2017 to determine FAP benefit eligibility, which includes the Cash Assistance received by the Petitioner in the amount of \$274, the gross income is \$ [REDACTED]. The FAP gross income limit is \$2184 for a group size of 3, and thus Petitioner's gross income exceeds the \$2184 limit. Based upon the evidence presented, the Department correctly determined that the Petitioner was ineligible for FAP due to excess income. RFT 250, (October 1, 2016), p. 1.

The Department also determined the Petitioner's eligibility for MA and determined after Petitioner communicated a decrease in earned income, that the MA deductible would be reduced to \$663 a month. The original MA deductible was \$802. Exhibit 7. The Department testified that it used two pay stubs to determine the income for determining medical assistance; these were \$ [REDACTED] and \$ [REDACTED] for total income of \$ [REDACTED]. The Department was to fax to MAHS to the undersigned's attention the MA budget and the Health Care Coverage Determination Notice which were admitted into evidence. The documents were not received despite an email request after the hearing that they be faxed again because they were not received. Thus, due to the fact that the documents establishing the deductible and the Health Care Coverage Determination Notice sent in regard to the new amount were never received, the Department did not provide sufficient documentary information to determine whether the deductible was properly determined in accordance with Department policy.

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 reduced the Petitioner's Food Assistance due to an increase in income.

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 proof to demonstrate that it acted in accordance with Department policy and that it correctly determined the MA deductible of \$663 correctly.

**DECISION AND ORDER**

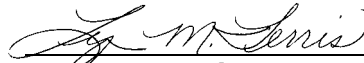
Accordingly, the Department's decision is

**AFFIRMED IN PART** with respect to the denial of the Petitioner's FAP application due to excess income and **REVERSED IN PART** with respect to with respect to its determination of the MA deductible.

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 MA deductible in accordance with department policy using the last 30 days of income.
2. The Department shall issue a written notice to the Petitioner regarding its deductible determination.

LF/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-31-Hearings  
BSC4-HearingDecisions  
FAP  
MA  
(via email)

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]