



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: September 27, 2017  
MAHS Docket No.: 17-010871  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 September 21, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Anthony Couls, Assistance Payments Worker/Hearing Facilitator, and Valarie Foley, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

**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 June 28, 2017, Petitioner submitted a completed Redetermination (Exhibit A, pp. 1-8).
2. On June 28, 2017, Petitioner also submitted verification of income from her employment with [REDACTED], [REDACTED] and [REDACTED] [REDACTED] (Exhibit D, pp. 1-6).
3. On [REDACTED], 2017, an interview was conducted with Petitioner where she disclosed she was no longer working with the employer, [REDACTED].

4. On July 3, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of her employment, or lack thereof, from the employer, [REDACTED] (Exhibit C, pp. 1-2).
5. On July 3, 2017, the Department sent Petitioner a Verification of Employment for her employment with [REDACTED] (Exhibit E, pp. 1-2), which was never returned.
6. Petitioner's FAP group consists of her and her daughter.
7. On July 31, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was being closed, effective August 1, 2017, ongoing, due to exceeding the gross income limit.
8. On August 8, 2017, the Department received Petitioner's request for hearing disputing her FAP and Medical Assistance (MA) cases.

### **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).

#### **MA**

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.

The hearing was requested, in part, to dispute the Department's action taken with respect to Petitioner's MA benefits. Shortly after commencement of the hearing, Petitioner testified that she now understood the actions taken by the Department and did not wish to proceed with the hearing regarding her MA benefits. The Request for Hearing was withdrawn with respect to Petitioner's MA case. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter for Petitioner's MA benefits, the Request for Hearing is, hereby, **DISMISSED**.

#### **FAP**

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.

On June 28, 2017, Petitioner submitted a completed Redetermination. Along with the Redetermination, Petitioner provided verification of income from her employment with [REDACTED], [REDACTED] and [REDACTED]. Pursuant to the Redetermination, an interview was conducted with Petitioner on [REDACTED], 2017. Petitioner disclosed her employment with [REDACTED] had ended on February 22, 2017. Petitioner's income from employment with [REDACTED] had been previously budgeted to determine her FAP benefit amount. As a result, the Department sent Petitioner a VCL on July 3, 2017, requesting verification that her employment with [REDACTED] had ended. Also on July 3, 2017, the Department sent a Verification of Employment to Petitioner to be completed by [REDACTED].

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

Petitioner testified that she presented the Verification of Employment to [REDACTED]. Petitioner stated she "left it in their hands" to complete the process of submitting the document to the Department. The Department did not receive the Verification of Employment from [REDACTED]. As a result, the income from employment with [REDACTED] that had been previously budgeted was included when the Department recalculated Petitioner's FAP benefits pursuant to the Redetermination.

The Department acted in accordance with policy when it continued to include Petitioner's income from [REDACTED] when determining her FAP benefit amount. The Department is required to remove stopped income from the budget for future months. BEM 505 (April 2017), p. 8. However, the Department must verify income changes that result in a benefit increase or when change information is unclear, inconsistent or questionable BEM 505, p. 14. The Department properly notified Petitioner that she needed to submit verification that she was no longer employed with [REDACTED]. Petitioner failed to ensure the verification of the conclusion of her employment with [REDACTED] was submitted. Therefore, the Department correctly continued to include Petitioner's income from [REDACTED] in the FAP budget.

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 (January 2016), 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 (April 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. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

When determining Petitioner's income from employment with [REDACTED], the Department used the pay statements that were submitted by Petitioner with the June 28, 2017 Redetermination. Petitioner provided pay statements that were issued on May 24, 2017, in the amount of \$487.20; June 7, 2017, in the amount of \$487.20; and June 21, 2017, in the amount of \$489.74. The Department averaged the income amounts and multiplied the average by the 2.15 multiplier, as Petitioner was paid on biweekly basis. The Department correctly concluded Petitioner's monthly income from employment with [REDACTED] was \$1,047.

When determining Petitioner's income from employment with [REDACTED], the Department used the pay statement that was submitted by Petitioner on June 28, 2017. Petitioner was paid on June 16, 2017, in the amount of \$71.05. Petitioner testified she was paid biweekly and generally earns around \$140 per month at [REDACTED]. Although the Department testified Petitioner's monthly income from employment with [REDACTED] was calculated to be \$81, Petitioner's income from employment with [REDACTED] is \$152 per month.

When determining Petitioner's income from employment with [REDACTED], the Department used the pay statements that were submitted by Petitioner with the June 28, 2017 Redetermination. Petitioner provided pay statements that were issued on May 31, 2017, in the amount of \$441 and June 15, 2017, in the amount of \$527.63. Petitioner was paid biweekly. The Department testified Petitioner's monthly income from employment with [REDACTED] was \$948. However, based on the pay statements considered, Petitioner's monthly income from employment with [REDACTED] was \$1,040.

The Department testified it calculated the gross monthly household income to be \$3,989. The Department included the income from employment that was verified pursuant to the June 28, 2017 Redetermination, along with income from [REDACTED] that had been previously budgeted in the amount of \$1,772 per month. There was no evidence that there was a Senior/Disabled/Veteran (SDV) member in the household. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250. Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS),

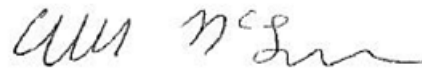
the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2016), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a two-person FAP group, the applicable 200% gross income limit is \$2,670. As the Department's monthly household gross income calculation of \$3,989 exceeded the gross income limit, Petitioner's FAP benefit case was closed, effective August 1, 2017, ongoing.

The Department slightly miscalculated Petitioner's monthly income. Petitioner's monthly income should be \$4,011. However, given that Petitioner would not have been entitled to benefits, as the correct household gross income calculation exceeds the gross income limit, there was harmless error in the miscalculation of the household gross income. Therefore, the Department acted in accordance with policy when closing Petitioner's FAP benefit case, effective August 1, 2017, ongoing.

### **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 closed Petitioner's FAP case effective August 1, 2017, ongoing. Accordingly, the Department's FAP decision is **AFFIRMED**.

Pursuant to the withdrawal of the hearing request filed in this matter for Petitioner's MA benefits, the Request for Hearing concerning MA is, hereby, **DISMISSED**.



EM/jaf

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**Ellen McLemore**  
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-18-Hearings

**DHHS**

MDHHS-Wayne-19-Hearings

**Petitioner**



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