



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
DETROIT

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: October 6, 2017  
MAHS Docket No.: 17-011560  
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 October 4, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Susan Engel, 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. Petitioner was an ongoing FAP recipient.
2. Petitioner's FAP benefit case was re-evaluated for July 1, 2017, ongoing, due to an income change.
3. Effective July 1, 2017, Petitioner's son began receiving a State Supplemental Payment in the amount of \$42 quarterly (\$14 per month) and a Supplemental Security Income (SSI) payment of \$735 per month (Exhibit D).
4. Petitioner's gross earned income from employment was \$1,815 per month.

5. Petitioner was a member of a group of three that consisted of herself, her husband and her minor child.
6. On June 5, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was being closed effective July 1, 2017, ongoing, due to her exceeding the net income limit.
7. On August 23, 2017, Petitioner requested a hearing disputing 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 sent Petitioner a Notice of Case action on June 5, 2017, stating her FAP benefits were being closed due to her exceeding the net income limit. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 55 (January 2017), p. 1. As Petitioner's son receives SSI, her group is designated as a categorically eligible SDV FAP group. Net income limitations are based on group size and are set forth in RFT 250. The Department presented a net income budget to establish Petitioner's group exceeded the net income limit (Exhibit C).

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.

The Department testified Petitioner's earned income from employment was calculated to be \$1,815 per month. Petitioner had submitted pay statements reflecting her income from employment pursuant to a previous determination of eligibility. Petitioner's pay statements reflected that she received a payment on March 24, 2017, in the amount of \$823.86; on April 7, 2017, in the amount of \$835.47; and on April 21, 2017, in the amount of \$873.69. Petitioner confirmed the pay statements were accurate. Petitioner was paid biweekly. When Petitioner's payment amounts are averaged and multiplied by the 2.15 multiplier, it results in a total monthly standard amount of \$1,815. Therefore, the Department correctly calculated Petitioner's monthly income from employment.

The Department retrieved the State Online Query (SOLQ) for Petitioner's son's SSI payments (Exhibit D). Petitioner's son received \$735 per month in SSI payments. Petitioner's son also received a quarterly SSP payment in the amount of \$42 (\$14 per month). Petitioner confirmed those figures were correct. The Department correctly concluded that the group's total countable income was \$2,564 based on all of the members' monthly income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a SDV member. BEM 550. Thus, the group is 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2017), p. 1; BEM 556 (July 2013), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p. 1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$363. Petitioner's FAP benefit group size of three, which is comprised of herself, her husband and her minor child, justifies a standard deduction of \$151. RFT 255 (October 2016), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

Petitioner testified she pays a \$125-per-month premium for health insurance that is provided through her employer. Petitioner stated the insurance premium is for a policy that covers herself, her husband and her minor child. As Petitioner's child qualifies as

an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. Allowable medical expenses include premiums for health and hospitalization policies. BEM 554, p. 10. If the policy covers more than one person, the Department allows a prorated amount for the SDV person(s). BEM 554, p. 10.

Although Petitioner is entitled to a prorated deduction for her son's medical insurance, policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Petitioner did not indicate that her child had any out-of-pocket medical expenses in her [REDACTED], 2017 application (Exhibit G). As Petitioner did not put the Department on notice of the potential deduction, the Department properly failed to include a medical expense deduction for Petitioner's child.

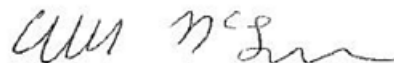
In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$350 and that she was entitled to the heat/utility standard of \$526. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50 percent of the adjusted gross income, which resulted in a deficit. Therefore, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$2,050. As Petitioner was not entitled to an excess shelter deduction, her net income is also \$2,050. The net income limit for a group of three is \$1,680. RFT (October 2016), p. 1. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case effective July 1, 2017, ongoing, for exceeding the net income limits.

### **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 benefit case effective July 1, 2017, ongoing.

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



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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-Saginaw-Hearings

**Petitioner**



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