



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 9, 2017
MAHS Docket No.: 17-012609
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 November 9, 2017, from Detroit, Michigan. Petitioner was present and represented herself. Petitioner was also present with her ex-husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearing Facilitator, and Rollin Carter, Eligibility Specialist.

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 benefit recipient.
2. Petitioner was previously a member of a group that consisted of herself and her daughter.
3. On [REDACTED], 2017, Petitioner submitted an application for FAP benefits and indicated she was living with her daughter and ex-husband (Exhibit D).
4. Petitioner had income from employment (Exhibit E).

5. Petitioner's ex-husband had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits (Exhibit F).
6. On August 7, 2017, Petitioner's ex-husband submitted a Redetermination indicating he lived at the same address as Petitioner (Exhibit B).
7. On September 9, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit case was being closed effective October 1, 2017, ongoing (Exhibit A).
8. On September 15, 2017, Petitioner submitted a request for 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, Petitioner was formerly a member of a group that consisted of herself and her daughter. On [REDACTED], 2017, Petitioner submitted an application for FAP benefits and indicated she was living with her daughter and ex-husband. Petitioner stated in the application that all members of the household shared food and prepared meals together. Despite the information provided by Petitioner, the Department continued to base Petitioner's FAP benefits on a group size of two.

On August 7, 2017, Petitioner's ex-husband completed a redetermination pursuant to his Medical Assistance benefit case. In the redetermination, Petitioner's ex-husband indicated he lived at the same address as Petitioner. The Department then realized that Petitioner's ex-husband was living in her home and was not included in Petitioner's FAP group. The Department conducted a Front End Eligibility (FEE) investigation. As a result of the FEE investigation, it was determined that Petitioner's ex-husband should be added to Petitioner's FAP group.

FAP budget calculations require the consideration of the group size. The Department will determine who must be included in the FAP group prior to evaluating the non-

financial and financial eligibility of everyone in the group. BEM 212 (January 2017), p. 1. The FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. BEM 212, p. 6. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212, p. 3. The phrase, purchase and prepare together, is meant to describe persons who usually share food in common. BEM 212, pp. 5-6. Persons usually share food in common if any of the following conditions exist: they each contribute to the purchase of food, they share the preparation of food, regardless of who paid for it or they eat from the same food supply, regardless of who paid for it. BEM 212, p. 6. In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212, p. 6.

Petitioner acknowledged that she lived with her ex-husband and they purchased and prepared food together. Per policy, Petitioner and her ex-husband should be a member of the same FAP group. Therefore, the Department acted in accordance with policy when it added Petitioner's ex-husband to her FAP group.

The Department recalculated Petitioner's FAP benefits based on the addition of her ex-husband to the FAP group. The Department presented a FAP budget to establish Petitioner's FAP eligibility (Exhibit G).

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 (July 2017), 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 (October 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 \$1,581 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 May 4, 2017, in the amount of

\$712 and May 18, 2017, in the amount of \$759.25. 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 \$1,581. Therefore, the Department correctly calculated Petitioner's monthly income from employment.

The Department retrieved the State Online Query (SOLQ) for Petitioner's ex-husband's RSDI payments (Exhibit F). Petitioner's ex-husband received \$1,107 per month in RSDI benefits. Therefore, the Department correctly determined Petitioner's unearned income was \$1,107.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 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 \$317. Petitioner's FAP benefit group size of three, which is comprised of herself, her husband and her child, justifies a standard deduction of \$160. RFT 255 (October 2017), 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.

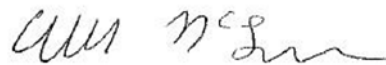
In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$398.21 and that she was entitled to the heat/utility standard of \$537. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount they added the total shelter amount and subtracted 50% 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 \$2,211. As Petitioner was not entitled to an excess shelter deduction, her net income is also \$2,211. The net income limit for a group of three is \$1,702. RFT

(October 2017), p. 1. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP benefit case effective October 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 October 1, 2017, ongoing. Accordingly, the Department's decision is **AFFIRMED**.



EM/

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



BSC4
M Holden
D Sweeney
E McLemore
MAHS