



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 15, 2017
MAHS Docket No.: 17-013364
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. The Department of Health and Human Services (Department) was represented by Lindsey Crandle, Eligibility Specialist, and Timothy Worcz, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

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. On August 23, 2017, Petitioner submitted a completed redetermination form (Exhibit B).
3. Petitioner was a member of a group that consisted of only herself.
4. Petitioner received \$1,276 per month in Retirement, Survivors, and Disability Insurance (RSDI) benefits, \$416 of which was disability based and \$860 was survivor based.

5. On September 11, 2017, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$15 per month effective October 1, 2017, ongoing.
6. On October 2, 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 submitted a completed redetermination on August 23, 2017. In the redetermination, Petitioner indicated she had unearned income. The Department recalculated Petitioner's FAP benefit amount and determined she was entitled to \$15 per month. Petitioner had previously received \$416 per month, as she was only receiving \$416 in RSDI benefits (Exhibit D). Petitioner submitted a hearing request to dispute her FAP benefit issuance amount.

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), pp. 1-2. 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. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8.

The Department retrieved the State Online Query (SOLQ) for Petitioner's RSDI benefits (Exhibit C). Petitioner received \$1,276 per month in RSDI benefits. Therefore, the Department correctly determined Petitioner's unearned income was \$1,276.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). 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.

BEM 554; BEM 556

Petitioner did not have any earned income. Therefore, she was not entitled to an earned income deduction. Petitioner's FAP benefit group size of one, which is comprised of only herself, 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.

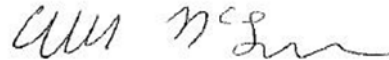
As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. Petitioner testified she submitted verification of her medical expenses. However, Petitioner testified she did not submit her medical expenses until after October 1, 2017. As the Department did not have any verified medical expenses at the time the Notice of Case Action was issued on September 11, 2017, the Department properly failed to include any medical expense deductions. Petitioner's income subtracted by the allowable deductions results in an adjusted gross income of \$1,116.

In calculating the excess shelter deduction of \$479, the Department stated that it considered Petitioner's verified housing expense of \$500 and that she was entitled to the heat/utility standard of \$537. BEM 554, pp. 14-15. When calculating Petitioner's excess shelter amount, the total shelter amount is subtracted by 50% of the adjusted gross income (\$558), which resulted in an excess shelter deduction of \$479.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$637. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$15 per month. Therefore, the Department acted in accordance with policy when it determined Petitioner's FAP benefit issuance amount.

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 determined Petitioner's FAP benefit issuance amount. 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-Washtenaw-Hearings

Petitioner



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