



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 17, 2018
MAHS Docket No.: 17-015554
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 January 12, 2018, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Gwendolyn Wilson, Family Independence Specialist.

ISSUE

1. Did the Department properly deny Petitioner's application for Family Independence Program (FIP) benefits?
2. 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. On [REDACTED], 2017, Petitioner submitted an application for FIP and FAP benefits.
2. Petitioner was a member of a group that consisted of herself and six minor children.
3. Petitioner had unearned income in form of Unemployment Compensation Benefits (UCB) in the amount of \$362 per week and child support for two children (Exhibits D and E).

4. On November 6, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP and FAP applications were denied (Exhibit F).
5. On November 15, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied, but her FAP benefits were approved for December 1, 2017, ongoing, in the amount of \$919 per month (Exhibit G). The Notice of Case Action states benefits for October 20, 2017, through October 31, 2017, were denied. The Notice of Case Action does not indicate the status of November 2017 FAP benefits.
6. On November 21, 2017, Petitioner submitted a hearing request disputing the Department's actions regarding her FIP and FAP case.

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).

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

In this case, Petitioner submitted an application for FIP benefits on [REDACTED], 2017. On November 6, 2017, the Department sent Petitioner a Notice of Case Action informing her that her FIP application was denied. The Department testified that Petitioner exceeded the income limit for FIP benefits.

To determine the amount of FIP benefits a client is eligible to receive, income received by the certified FIP group is subtracted from the payment standard, which is the maximum benefit amount that can be received by the certified group. BEM 515 (October 2015), p. 1; BEM 518 (October 2015), p. 1. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 3. In this case, the Department testified that there were seven individuals in Petitioner's FIP group. Based on a certified FIP group size of seven, the applicable payment standard is \$905. RFT 210 (April 2017), p. 1.

At the application for FIP benefits, the Department applies the qualifying deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The qualifying deficit test compares (i) the group's budgetable income for the income month decreased by the qualifying earned income disregard to (ii) the certified group's payment standard for the benefit month, or, in this case, \$905. BEM 518, p. 3. The

issuance earned income disregard reduces each person's countable earnings by \$200 and then by an additional 20% of the person's remaining earnings. BEM 518, p. 5. If the qualifying deficit test results in no deficit, the client is ineligible for FIP for the benefit month. BEM 518, p. 3.

The Department testified Petitioner's household income consisted of Petitioner's UCB and child support benefits. The Department presented a Consolidated Inquiry which showed Petitioner received \$362 per month in UCB benefits (Exhibit D). The Department correctly determined Petitioner's monthly income from her UCB benefits was \$1,448 per month.

The Department testified that it calculated Petitioner's child support income to be \$785 per month. When calculating child support income, the Department uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505 (October 2017), p. 4. If there are known changes that will affect the amount of the payments in the future, the Department will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5.

The Department presented a consolidated inquiry, which showed Petitioner's child support payments. The Consolidated Inquiry shows that each child received \$444.70 in August 2017; \$340.14 in September 2017; and \$303.92 in October 2017 in direct support payments. The Department testified it used those months to calculate Petitioner's child support income. When averaging those figures and multiplying by two (the number of children), it does not equal \$785. Therefore, the Department failed to establish that it properly calculated Petitioner's child support income.

Although the Department did not properly calculate Petitioner's child support income, Petitioner's UCB benefits alone would make her income ineligible for FIP benefits. Petitioner's UCB benefits (\$1448 per month) reduced by the qualifying earned income disregard (\$200, then the remaining earnings by 20%), results in a budgetable income of \$999. When compared to the group's payment standard (\$905), there is no deficit. Therefore, Petitioner is income ineligible for FIP benefits. Thus, there was harmless error in the Department's miscalculation of Petitioner's child support income and the Department properly followed policy when it denied her FIP application.

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.

In this case, Petitioner applied for FAP benefits on [REDACTED], 2017. In the Notice of Case Action mailed on November 6, 2017, Petitioner's application for FAP benefits was denied. In the Notice of Case Action mailed on November 15, 2017, the Department approved Petitioner's FAP application for benefits in the amount of \$919 per month effective December 1, 2017, ongoing. For October 17, 2017, through October 31, 2017, Petitioner was denied benefits. The Notice of Case Action does not address November's benefits. The Department was unable to provide testimony as to why the Notice of Case Action did not address November 2017 benefits. According to the Benefit Summary Inquiry, Petitioner did receive benefits in November 2017 in the amount of \$684 (Exhibit B).

Petitioner submitted a hearing request to dispute November 2017 FAP benefits. Petitioner testified that the Department based her November benefits on a group size of six. The Department testified that was accurate. Petitioner testified her group size should have been seven, as she has had legal custody of her Aunt's child since January 2017. The Department stated that was also accurate and Petitioner's FAP benefits were based on a group size of seven for December 1, 2017, ongoing.

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. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. BEM 212, p. 2. A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group. BEM 212, p. 2.

Petitioner's testified that she notified the Department of the addition of her Aunt's child to her home in January 2017. Petitioner testified that she sought and obtained Medical Assistance (MA) benefits for the child in 2017. Petitioner stated she had to provide legal documents to the Department to establish custody to obtain the MA benefits. Petitioner's testimony was credible. Additionally, Petitioner listed six children in the home in her [REDACTED], 2017 application. Therefore, Petitioner's group size for November 2017 FAP benefits should have been based on a group size of seven. As the FAP benefit amount is determined using the household group size, the Department failed to establish that it properly calculated Petitioner's November 2017 FAP benefits, as the incorrect group size was used.

DECISION AND ORDER

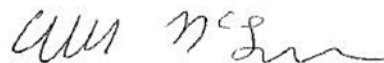
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's FIP application. The

Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's November 2017 FAP benefit amount.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's FIP benefit case and **REVERSED IN PART** with respect to Petitioner's November 2017 FAP benefits.

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. Redetermine Petitioner's FAP eligibility for November 2017;
2. If Petitioner is eligible for additional FAP benefits, issue supplements she was entitled to receive but did not for November 2017;
3. Notify Petitioner of its FAP decision in writing.



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-Wayne-31-Hearings

Petitioner



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