



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: February 8, 2018
MAHS Docket No.: 17-016327
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 February 1, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Rhonda Keene, General Services Program Manager, and Amy Hovey, Eligibility Specialist.

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 [REDACTED], 2017, Petitioner completed a Mid-Certification review (Exhibit A).
3. Petitioner had unearned income in the form of Retirement, Survivors, and Disability Insurance (RSDI) in the amount of \$331 per month, Supplemental Security Income (SSI) in the amount of \$439 per month, and State SSI Payments (SSP) in the amount of \$42 per quarter (Exhibit B).
4. Petitioner was the sole member of his FAP group.

5. Petitioner was enrolled in Medicare Part B.
6. On December 18, 2017, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefits were decreasing to \$120 per month effective February 1, 2018, ongoing.
7. On December 21, 2018, Petitioner submitted a request for hearing.
8. On December 26, 2018, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefits were increasing to \$126 per month effective February 1, 2018, ongoing.

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 completed a Mid-Certification review on [REDACTED], 2017. Petitioner was previously budgeted a \$126 medical expense deduction for his Medicare Part B premiums. During the review process, the Department determined the State of Michigan was paying Petitioner's Medicare Part B premium, and therefore, removed the expense. The Department issued a decision on December 18, 2018, notifying Petitioner that his FAP benefits were being reduced to \$120 per month effective February 1, 2018, ongoing. Petitioner requested a hearing on December 21, 2017, as a result. However, shortly after the decision was issued, the Department realized it committed an error regarding Petitioner's unearned income. The error was corrected and the Department issued a second Notice of Case Action on December 26, 2018, informing Petitioner that his benefits were increasing to \$126 per month effective February 1, 2018. Although the second Notice of Case Action was issued after the request for hearing, the second notice is related to the Notice of Case Action that prompted the hearing and covers the same time period. Therefore, the Department's determination that Petitioner was entitled to \$126 in FAP benefits effective February 1, 2018, ongoing, will be addressed. The Department presented a FAP budget for February 2018 to show how it calculated Petitioner's FAP benefit amount (Exhibit D).

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 determined that Petitioner’s total household income was a total of \$784 in unearned income. The Department presented Petitioner’s State On-Line Query (SOLQ) report showing he receives \$331 per month in RSDI benefits and \$439 per month in SSI benefits. The Department also testified that Petitioner receives \$42 in SSP payments per quarter, which is budgeted to be \$14 per month. Petitioner confirmed those figures were accurate. Therefore, the Department properly determined Petitioner’s household income.

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

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 and child support expenses. Petitioner’s FAP benefit group size of one, which is comprised solely of himself, justifies a standard deduction of \$160. RFT 255 (October 2017), p. 1.

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. According to the SOLQ, the State of Michigan has been paying Petitioner’s Medicare Part B premium since June 1, 2012. Therefore, the Department properly removed the deduction, as Petitioner does not incur an expense for his Medicare Part B coverage. There was no evidence that Petitioner submitted any verification of any other ongoing medical expenses. Therefore, the Department properly established that Petitioner was not entitled to a medical expense deduction.

In calculating the excess shelter deduction of \$406, the Department stated that it considered Petitioner's verified housing expense of \$181 and that he was responsible for monthly utility expenses, entitling him to the heat/utility standard of \$537. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter deduction, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$406 per month.

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 \$624. Petitioner's FAP benefit group's net income is found to be \$218. 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 \$126. Therefore, the Department properly established that it acted in accordance with policy when it determined Petitioner's FAP benefit 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 amount. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



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

Via Email:

MDHHS-Van Buren-Hearings
M. Holden
D. Sweeney
BSC3 Hearing Decisions
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Petitioner – Via First-Class Mail:

