



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 27, 2018
MAHS Docket No.: 18-002937
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 April 25, 2018, from Detroit, Michigan. The Petitioner was represented by his Authorized Hearing Representative/Translator, [REDACTED]. The Department of Health and Human Services (Department) was represented by Haysem Hosney, Hearing Coordinator.

ISSUE

Did the Department properly determined 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 January 1, 2018, Petitioner's Supplemental Security Income (SSI) was increased from \$735 per month to \$750 per month.
3. Petitioner also receives a quarterly State SSI Payment (SSP), which averages to \$14 per month.
4. Petitioner was a member of a household that consisted solely of himself.

5. On December 9, 2017, the Department sent Petitioner a Notice of Case Action informing Petitioner he was eligible for FAP benefits in the amount of \$81 per month effective January 1, 2018, ongoing (Exhibit E).
6. On January 30, 2018, the Department sent Petitioner a Notice of Case Action informing him he was still eligible for FAP benefits in the amount of \$81 per month effective January 1, 2018, ongoing (Exhibit F).
7. On March 21, 2018, Petitioner submitted a request for hearing disputing the amount of his FAP benefits.

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 received an increase in SSI benefits effective January 1, 2018. As a result, the Department recalculated Petitioner's FAP benefit amount. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit D).

According to the budget provided, the Department determined Petitioner had a monthly unearned income amount of \$764. 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. As of January 1, 2018, Petitioner receives \$750 per month in SSI benefits. Petitioner also receives a quarterly SSP payment, which averages to \$14 per month.

Petitioner argued that he only receives \$725 in SSI benefits. Petitioner testified that his monthly payment is reduced by \$25. Petitioner was unsure as to why his SSI payments were reduced on a monthly basis. The State On-Line Query (SOLQ) shows Petitioner receives \$750 in gross SSI benefits, with a \$25 deduction each month (Exhibit G).

SSI is a benefit administered by the Social Security Administration (SSA). SSI is a means-tested program that can be received based on age, disability or blindness. BEM 503 (July 2017), p. 35. The Department counts the gross amount of current SSI benefits as unearned income. BEM 503, p. 35. The gross payable amount is the amount the recipient was entitled to receive (before adjustments for overpayments) in the previous Treasury File. The current gross payable amount is the amount the recipient is eligible to receive (before adjustments for overpayments) on the payment date displayed in the SOLQ. According to policy, the Department only includes amounts being recouped as a result of a previous Intentional Program Violation (IPV) in the gross SSI amount. BEM 503, p. 35. There was no evidence presented that the amount that was being recouped was due to an IPV. Therefore, the Department properly used the current SSI gross payable amount of \$750 per month. Thus, the Department's calculation of Petitioner's monthly unearned income amount of \$764 was correct.

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's FAP benefit group size of one 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, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$235, the Department stated that it considered Petitioner's verified housing expense of \$0. The Department testified that Petitioner has a housing expense but that it was not properly verified. As a result, it was not included in the budget. Petitioner testified that he was not sure how to verify his housing expense. Petitioner stated it is likely that he never submitted proof of his housing expense.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 13. The expense must be a continuing one. BEM 554, p. 13. The Department will verify shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department will remove the old expense

until the new expense is verified. BEM 554, p. 14. As Petitioner never verified his housing expense, the Department properly excluded the expense from the budget.

The Department stated that Petitioner receives a LIHEAP payment, entitling him 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. Petitioner's excess shelter deduction was properly calculated at \$235 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 \$604. Petitioner's adjusted gross income subtracted by the \$235 excess shelter deduction results in a net income of \$369. 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 \$81. Therefore, the Department properly calculated 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 calculated 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-Macomb-36-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

