



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: July 20, 2018  
MAHS Docket No.: 18-006062  
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 July 19, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Eric Murphy, 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. In [REDACTED] 2018, Petitioner completed a Simplified Six-Month Review (Exhibit B).
3. Petitioner was the sole member of his household.
4. Petitioner received \$1,084 in gross Retirement, Survivors, and Disability Insurance (RSDI) benefits per month (Exhibit C).
5. On May 3, 2018, the Department sent Petitioner a Notice of Case Action informing him that he would continue to be eligible to receive \$15 per month in FAP benefits (Exhibit A).

6. On June 11, 2018, Petitioner submitted a request for hearing disputing the Department's actions regarding his FAP benefit amount, as well as issues regarding his caregiver pay.

### **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).

#### **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 completed a mid-certification review. The Department sent Petitioner notice on May 3, 2018 that he was still eligible to receive \$15 in FAP benefits per month. Petitioner argued that with his expenses, such as income tax, he should be entitled to additional FAP benefits. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit D).

The Department determined Petitioner's countable income consisted solely of his \$1,084 RSDI benefit 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 presented a State On-Line Query (SOLQ) report showing that Petitioner receives \$1,084 in RSDI benefits per month. Therefore, the Department properly determined Petitioner's countable 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 (January 2017), p. 1; BEM 556 (July 2013), p. 3.

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 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 that until recently, he was required to pay his Medicare Part B expense. The SOLQ shows that the Medicare Part B buy-in date was June 1, 2018, at which point the State of Michigan began paying the expense. As Petitioner is no longer responsible for the expense, he is not entitled to a medical deduction. Petitioner testified that he also submitted a medical bill for an accident that occurred on June 1, 2018. Petitioner stated he did not submit any medical bills prior to that date, as he had full-coverage MA and did not incur any expenses. The Department issued its decision regarding Petitioner's FAP benefit amount on May 3, 2018. At that point, Petitioner had not submitted any verified medical expenses. Therefore, the Department properly did not include any medical expense deductions in the calculation of Petitioner's FAP benefit amount.

In calculating the excess shelter deduction of \$125, the Department stated that it considered Petitioner's verified housing expense of \$49.86 and that he was responsible for a monthly heating expense, entitling him to the heat/utility (h/u) 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 \$125 per month.

Petitioner argued that he has additional expenses, such as income tax. FAP allowable expenses includes: (i) basic shelter expenses such as 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, property taxes, state and local assessments and insurance on the structure, and home repairs of a home which was substantially damaged or destroyed due to a natural disaster; (ii) the h/u standard or individual utility standards; (iii) utility installation fees charged by the utility provider, excluding deposits; and (iv) well/septic installation and maintenance. BEM 554, pp. 13-25. Policy does not provide a deduction for items such as property taxes. Additionally, Petitioner argued that he has a multitude of utility expenses. However, when a client receives the h/u standard deduction, they do not qualify for any individual utility standards. BEM 554, p. 15. Therefore, the Department properly considered all of the deductions for which Petitioner is entitled.

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 \$924. Petitioner's adjusted gross income subtracted by the \$125 excess shelter deduction results in a net income of \$799. 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. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

## **MA**

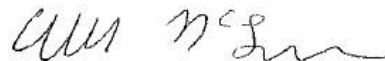
The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner submitted a hearing request, in part, to dispute the Department's failure to provide payment for his Home Help services. As the issue for which Petitioner requested a hearing was not related to an MA eligibility issue, he was advised that the matter could not be addressed. Therefore, Petitioner's hearing request is, in part, **DISMISSED**.

### **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**.

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**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) 763-0155; 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-Wayne-41-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
BSC4- Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

