



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 7, 2018
MAHS Docket No.: 18-008052
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 September 5, 2018, from Lansing, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Joann Sepic, Assistance Payments Supervisor. During the hearing, 11 pages of documents were offered and admitted as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case for exceeding the net income limit for her group size?

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 recipient of FAP benefits receiving \$352 per month in FAP benefits with a group of two that included Petitioner and Petitioner's daughter.
2. On [REDACTED], 2018, Petitioner submitted a Change Report to the Department indicating that she gave birth to a child in May of 2018. On the report, Petitioner informed the Department that the child's father and the child would be living with Petitioner, that the father worked, and that the father was the sole provider for all members of the household, which now includes four people. Additionally,

Petitioner provided two pages of check stubs from the father's job. Exhibit A, pp. 1-4.

3. On July 23, 2018, the Department processed Petitioner's Change Report and issued a Notice of Case Action informing Petitioner that her FAP case would close effective September 1, 2018. Exhibit A, pp. 8-11.
4. On [REDACTED] 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's decision to close her 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).

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 objects to the Department's calculation of her FAP benefits upon receiving the report that she gave birth to a child and that both the child and the child's father were living in her house in addition to herself and her other child.

First, Petitioner believes that it was erroneous to include the father in Petitioner's FAP benefits group. Parents and their children under 22 years of age who live together must be in the same group. BEM 212 (January 2017), p. 1. Thus, Petitioner's new child, who lives with Petitioner, is a mandatory member of Petitioner's FAP group. As the new child is a member of the FAP group, the child's father, who lives with the child, is also a mandatory FAP group member. Accordingly, the Department did not err in adding the child's father or the child to Petitioner's FAP group.

Because the father was appropriately added as a FAP group member, his income was appropriately used in budgeting Petitioner's FAP benefits. BEM 550 (January 2017), p. 1. Based on the paycheck stubs Petitioner provided with the Change Report, Petitioner's group has \$3,893 in monthly total income, of which all is earned income. Petitioner's \$3,893 in earned income is eligible for the earned income deduction of 20%, thus reducing Petitioner's total income to \$3,114. BEM 550, p. 1. The standard deduction of \$164 for a FAP group of four was then taken out, resulting in adjusted gross income of \$2,950.

Petitioner is not eligible for a deduction for child care, medical or child support expenses. Likewise, Petitioner is not eligible for the excess shelter deduction. The excess shelter deduction is calculated by adding Petitioner's \$700 in reported housing expenses and the \$32 telephone standard for a total shelter amount of \$732.¹ The excess shelter deduction is calculated by subtracting from the \$732 one half of the adjusted gross income, which is \$1,475. The remaining amount is the excess shelter deduction. In this case, the remaining amount is less than zero, so Petitioner is not eligible for the excess shelter deduction. Thus, Petitioner's net income is the same as Petitioner's adjusted gross income - \$2,950.

The FAP Income Limits table shows both the gross income limit and net income limit for receiving FAP benefits. RFT 250 (October 2017), p. 1. RFT 250 provides, for a group of four, a net income limit of \$2,050 per month. RFT 250, p. 1. Thus, based on Petitioner's reported income and group composition, Petitioner has excessive net income and was appropriately determined by the Department to be ineligible for FAP benefits. Accordingly, the Department's decision to close Petitioner's FAP case is affirmed.

Petitioner objected to the Department's calculation of the group's income based on the fact that the income as provided by Petitioner was slightly inflated due to overtime. The Department, however, appropriately budgeted Petitioner's group's income based on the information it had at the time. Petitioner is advised that she may reapply for FAP if her income changes, and the Department can reassess her FAP eligibility as of the date of the new application.

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 closed Petitioner's FAP case.

Accordingly, the Department's decision is **AFFIRMED**.



John Markey
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

JM/dh

¹ Petitioner subsequently reported heating and utility expenses.

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

DHHS

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI 49023

Eaton County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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