



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 30, 2018
MAHS Docket No.: 18-009698
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 28, 2018, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented himself. Eligibility Specialist, Shanna Ward, appeared and represented the Department. Neither party had any additional witnesses.

Two exhibits were admitted into evidence during the hearing. A 30-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A, and a June 12, 2018, Notice of Case Action was admitted as the Department's Exhibit B.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits?

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 is a FAP benefit recipient.
2. In 2014, Petitioner retired from his profession due to a loss of vision.
3. In 2017, Petitioner received a payment of \$6,175.00 for services he provided before he retired. Petitioner filed a tax return for the tax year 2017 and reported that he had gross income of \$6,175.00 from self-employment.

4. Petitioner has a household size of one, Petitioner has income from social security of approximately \$1,062.00 per month, and Petitioner pays property taxes on his home which were \$2,142.53 in 2016. Petitioner's most recent property taxes were \$2,232.00.
5. In June 2018, the Department issued a FAP benefit of \$82.00 to Petitioner.
6. On June 12, 2018, the Department issued a Notice of Case Action which notified Petitioner that he was approved for FAP benefits of \$15.00 per month from March through May 2018 and that he was approved for \$15.00 per month from July 2018 through May 2019. The Department included its budget, which showed that the Department included \$385.00 per month for self-employment income, the Department included a deduction for \$161.00 for medical expenses, and the Department used housing expenses of \$178.54 per month.
7. In August 2018, the Department removed Petitioner's self-employment income from the budget it used to calculate his FAP benefit. The Department also removed the medical expense deduction of \$161.00 because it represented Petitioner's Medicare Part B premium which was paid through the Medicare Savings Program as opposed to out-of-pocket by Petitioner. The changes in the Department's budget did not result in a change in Petitioner's FAP benefit amount because the Department determined that Petitioner was still entitled to a maximum FAP benefit of \$15.00 per month.
8. On September 19, 2018, Petitioner filed a hearing request to dispute his FAP benefit amount.

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.

A client has 90 days from the date of written notice of case action to file a hearing request to dispute it. BAM 600 (October 1, 2018), p. 6. Here, Petitioner filed a hearing request more than 90 days from the date of the Department's June 12, 2018, written Notice of Case Action. Thus, Petitioner's hearing request was filed too late to dispute the Department's June 12, 2018, Notice of Case Action. However, for FAP benefits, a

client may file a hearing request at any time to dispute his current FAP benefit amount. BAM 600, p. 7. Therefore, Petitioner's hearing request will be considered regarding his current FAP benefit amount as of the date he filed his hearing request. Since Petitioner's FAP benefit amount as of the date he filed his hearing request was \$15.00 per month, the issue is whether the Department properly determined that Petitioner's FAP benefit amount was \$15.00 as of September 2018.

The Department determines a client's monthly FAP benefit amount by determining the client's group size and countable household income and then looking that information up in its applicable Food Issuance Table. BEM 212 (January 1, 2017), BEM 213 (January 1, 2018), BEM 550 (January 1, 2017), BEM 554 (August 1, 2017), BEM 556 (April 1, 2018), and RFT 260 (October 1, 2017). To determine a client's countable income, the Department considers the expenses and deductions that a client is entitled to such as the standard deduction, excess shelter expense, and the heat/utility standard. Here, Petitioner was entitled to a standard deduction of \$154.00 for a household size of one, Petitioner was entitled to an excess shelter expense of \$186.00, and Petitioner was entitled to a heat/utility standard of \$537.00. Petitioner's income from social security of \$1,062.00 less the expenses and deductions that he was entitled to results in a countable income of \$639.00.

Since Petitioner's Medicare Part B premium was paid by the Medicare Savings Program as opposed to being paid out of pocket by Petitioner, the Department correctly disallowed a deduction for the premium expense. An expense is only allowable if someone in the FAP group has the responsibility to pay for it. BEM 554 (August 1, 2017), p. 1. Since Petitioner's premium was paid by the Medicare Savings Program, Petitioner did not have the responsibility to pay for it and it was not an allowable expense.

Once the Department determines a client's countable income, the Department looks it up in its Food Issuance Table to determine the maximum FAP benefit the client is entitled to receive. RFT 260 (October 1, 2017). A client with a household size of one and a countable income of \$639.00 in September 2018 was entitled to a maximum FAP benefit of \$15.00 per month. Thus, the Department properly determined Petitioner's FAP benefit amount.

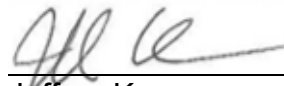
In summary, Petitioner's maximum FAP benefit amount was properly determined at \$15.00 for September 2018 even with the exclusion of Petitioner's self-employment income. Based on Petitioner's income, group size, and allowable expenses and deductions, the maximum FAP benefit Petitioner was eligible for was \$15.00 per month.

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 did act in accordance with its policies and the applicable law when determined Petitioner's FAP benefit amount.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



Jeffrey Kemm
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

DHHS

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]