



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: November 30, 2018
MAHS Docket No.: 18-010103
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 November 29, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Kimberly Reed, Lead Worker. During the hearing, a 53-page packet of documents was offered and admitted as Exhibit A, pp. 1-53.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits for September of 2018?

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 an ongoing recipient of FAP benefits.
2. Petitioner's benefit period was set to expire on August 31, 2018. Exhibit A, pp. 43-45.
3. On July 2, 2018, the Department issued to Petitioner a Semi-Annual Contact Report to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits. Exhibit A, pp. 20-21.
4. Petitioner returned the completed Semi-Annual Contact Report on July 16, 2018. She submitted in again, this time electronically, on July 30, 2018. On the

submitted forms, Petitioner indicated that she would be returning to work at both of her jobs at the end of August 2018. Exhibit A, pp. 20-23.

5. Based on the information reported, the Department issued to Petitioner an August 15, 2018 Verification Checklist (VCL) requiring Petitioner to provide information, including employer statements, related to both of her jobs. Exhibit A, pp. 24-33.
6. Petitioner provided all of the information requested before the end of the month of August 2018. Exhibit A, pp. 24-33.
7. Shortly thereafter, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for \$249 in FAP benefits for September 2018.
8. On ██████████ 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's calculation of her September 2018 FAP benefits.
9. Sometime after the hearing request was submitted, the Department reviewed the case and issued to Petitioner a supplement of \$51 for the month of September 2018, bringing her total September 2018 FAP benefits to \$290.

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 challenges the Department's calculation of her benefits for the month of September 2018. Petitioner's position is that the Department improperly budgeted her income at redetermination, causing her FAP benefits to be less than what she believes she was entitled to receive.

On May 8, 2018, the Department issued to Petitioner a Notice of Case Action informing Petitioner that she was approved for \$252 in monthly FAP benefits, effective June 1, 2018. The Notice of Case Action included a Budget Summary showing the inputs the Department used in calculating Petitioner's monthly FAP allotment. The Budget Summary included \$1,722 in monthly earned income.

Petitioner's FAP benefit period was set to expire August 31, 2018. On July 2, 2018, the Department issued to Petitioner a Semi-Annual Contact Report in order to gather relevant information regarding Petitioner's ongoing eligibility for FAP benefits beyond August 31, 2018. The Department must periodically redetermine an individual's eligibility for active programs. BAM 210 (January 2018), p. 1. The July 2, 2018 Semi-Annual Contact Report issued to Petitioner served as the redetermination form in this case. BAM 210, p. 8. The Department included instructions to fill out the form and return it by August 1, 2018 in order to recertify her case and allow her to receive uninterrupted FAP benefits after August 31, 2018.

On July 16, 2018, Petitioner returned the completed Semi-Annual Contact Report to the Department. On the completed submission, Petitioner indicated that her income had changed more than \$100 from the \$1,722 that had previously been budgeted. The Department did not process Petitioner's submission.

On July 30, 2018, Petitioner submitted another completed Semi-Annual Contact Report to the Department, this time electronically. On her second submission, she wrote that "i am off for the summer due to school vacation. i will return to both of my jobs at the end of aug".

The Department processed Petitioner's second submission and thereafter issued an August 15, 2018 VCL. The VCL required Petitioner to return to the Department by August 27, 2018 verification of her employment with her two employers, including pay records if applicable and employer statements.

Petitioner returned the completed verifications to the Department from both employers on or around August 27, 2018. One employer indicated that Petitioner would be working 17.5 hours per week at \$10.44 per hour. The other employer indicated that Petitioner was working 22 hours per week at \$14 per hour. Neither of the employers had paid Petitioner any wages as of the time the verifications were returned.

Based on Petitioner's projected income and expenses as discovered through the Semi-Annual Contact Report process, the Department calculated Petitioner's FAP benefits for the month of September 2018 to be \$249. Sometime after issuing Petitioner that amount, the Department reviewed the case and issued to Petitioner a supplement of \$51 for September 2018. Thus, the Department issued, in total, \$290 in FAP benefits to Petitioner for the month of September 2018. Petitioner objects to the manner in which the Department calculated her FAP benefits only for that month, specifically how the Department calculated her income for that month.

Petitioner's argument is that the Department should have processed the reported increase in income and employment as a negative action. However, when the Department reduces a FAP group's benefits at redetermination, that action is treated as a positive action because the change affects the new certification, not the current benefit period. BEM 220, p. 6. Accordingly, the change is immediately implemented at the beginning of the new benefit period, which in this case was correctly determined to

be September 2018. Thus, the Department did not error in using the reported information provided in the employment verifications.

Thus, the only question that remains is whether the Department properly projected Petitioner's income for the month of September 2018. The Department initially issued to Petitioner \$249 in FAP benefits for September 2018. A short while later, the Department issued to Petitioner a \$51 supplement, bringing her total September 2018 FAP benefits to \$290.

During the hearing, the Department indicated that the \$291 calculation was reached by determining that Petitioner had \$1,607 of earnings for September 2018. The evidence presented by the Department to support that finding consisted of the employment verifications informing the Department of Petitioner's hourly wage and expected hours at each of her two jobs and a paycheck stub dated September 13, 2018 showing Petitioner was paid \$747.46 from one of her jobs for a two-week period. The employment verifications indicate that Petitioner was working at one job for 17.5 hours per week at a rate of \$10.44 per hour, starting August 29, 2018. The income at those hours and rate of pay comes to a monthly total of \$785.61. Petitioner began working her other job in August as well. At that job, Petitioner worked about 22 hours per week at \$14 per hour. The income at those hours and rate of pay comes to a monthly total of \$1,324.40. Adding those two income sources together results in a projected September 2018 income of \$2,110.01. How the Department arrived upon a final calculation of \$1,607 for September 2018 is unknown. However, if any error was made, it accrued to Petitioner's favor and will not be disturbed by Petitioner's appeal. Accordingly, I find that the Department's calculation of September earned income of \$1,607 will remain in place.

Petitioner total income of \$1,607 consisted solely of earned income. Thus the 20% earned income applies, leaving Petitioner with a post-earned income deduction income of \$1,286. The standard deduction of \$154 was then taken out, resulting in adjusted gross income of \$1,132. Petitioner did not report any child care, medical, or child support expenses. Thus, those deductions are not applicable.

However, Petitioner is eligible for the excess shelter deduction. Petitioner had housing costs of \$450 and was eligible for the h/u standard of \$537. Added together, Petitioner had monthly shelter expenses of \$987. The excess shelter deduction is calculated by subtracting from the \$987 one half of the adjusted gross income, which is \$566. The remaining amount, if it is greater than \$0, is the excess shelter deduction. In this case, the remaining amount is \$421, which the Department properly calculated as Petitioner's excess shelter deduction. Petitioner's net income is then calculated by subtracting the excess shelter deduction (\$421) from the adjusted gross income (\$1,132), which equals \$711.

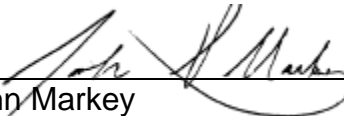
The Food Assistant Issuance Table shows \$290 in monthly FAP benefits for \$1,132 net income for a household of three people. RFT 260 (October 2017), p. 10. This is the amount dispensed by the Department and is correct. The Department acted in

accordance with Department policy when it determined Petitioner's FAP benefits for September 2018.

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 benefits for September 2018. Accordingly, the Department's decision is **AFFIRMED**.

JM/nr



John Markey
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

Kimberly Reed
609 North State Street
PO Box 278
Stanton, MI
48888

Montcalm County DHHS- via electronic
mail

BSC3- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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