



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: November 20, 2018  
MAHS Docket No.: 18-010467  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 14, 2018, from Lansing, Michigan. Petitioner appeared and testified. The Department of Health and Human Services (Department or Respondent) was represented by L Brown, Hearing Facilitator (HF) and Mr. Hussein, Eligibility Specialist (ES) Worker.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) allotment?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times to the issues herein, Petitioner has been a beneficiary of the Food Assistance Program.
2. In March 2018 Petitioner began receiving an increase in Social Security benefits, from \$750.00 to \$1099.10 per month. Petitioner did not inform the Department.
3. On [REDACTED], 2018, Petitioner applied for Medicaid and included verification of his March RSDI award letter. At that point Respondent recalculated FAP eligibility due to an increase in income.

4. On September 17, 2018, Respondent issued a Notice of Case Action informing Petitioner that his FAP benefits are reduced to \$86.00 per month on the grounds of increased income.
5. On October 5, 2018, Petitioner filed a hearing request arguing that he needs his FAP benefits to increase due to special dietary needs and that the worker has no right to determine his FAP allotment, only his physician.

### **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.

Applicable policy and procedure to the facts herein are found at BAM 105, 600; BEM 503, 554.

In all eligibility determinations, the applicant, here Petitioner, has the burden of proof by a preponderance of evidence.

In this case, Petitioner's social security income increased in March 2018. Respondent first became aware in August 2018. Under federal and state law, and Department policy, Respondent is mandated to count all gross income in assessing eligibility for welfare programs. The FAP budget show Petitioner's eligibility to be \$86.00 per month.

There was some discussion at the hearing regarding shelter verification(s). However, a review of the budget shows that at the time of the FAP budget calculated here, and at the time of Petitioner's hearing request, Respondent did budget a shelter expense. Thus, any subsequent failure by Petitioner to deliver necessary shelter verification(s) is not reviewed herein.

Here, Petitioner did not meet his burden of proof to establish that he was entitled to any more benefits that he is receiving. Petitioner is correct that the HF at the hearing cannot dictate to Petitioner his diet. However, Petitioner submitted no evidence that he is entitled to more welfare benefits that any person similarly situated would receive under similar circumstances. The law does not carve out special exceptions based on individual expenses and income. In fact, the Respondent is mandated to calculate

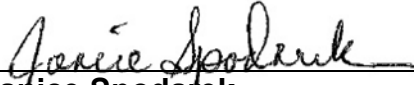
Petitioner's FAP benefits as required by law; such does not impact Petitioner's relationship with his physician.

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 Petitioner failed to meet his burden to show that the Department did not act in accordance with Department policy when it calculated Petitioner's FAP benefits.

**DECISION AND ORDER**

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

JS/hb

  
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**Janice Spodarek**  
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**

Lauren Casper  
27690 Van Dyke  
Warren, MI 48093

Macomb County (District 20), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

