



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 8, 2019
MAHS Docket No.: 19-000838
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 February 28, 2019, from Lansing, Michigan. Petitioner was represented by [REDACTED], Petitioner. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearings Facilitator.

Respondent's Exhibit A pages 1-17 were admitted as evidence.

ISSUE

Did the Department properly reduce 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 Food Assistance Program benefits recipient.
2. Petitioner was receiving \$367.00 a month in FAP benefits.
3. Petitioner's FAP case was scheduled for redetermination.
4. Petitioner submitted paycheck stubs for her spouse for the redetermination.
5. During the telephone interview, Petitioner reported that her spouse is paid a bi-weekly amount of \$1,440.00.

6. Corrected income was entered into the budget.
7. On January 15, 2019, the Department sent Petitioner a notice of Case Action indicating that Petitioner was approved for monthly FAP benefits in the amount of \$160.00.
8. On January 25, 2019, the Department received a Request for Hearing from Petitioner, contesting the reduction of Food Assistance Program benefits.
9. On February 7, 2019, the Michigan Administrative Hearing System received the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually-calculated or an automated FAP worksheet. (BEM 550, page 1)

Bridges converts all expenses (except one-time-only expenses the group does not wish to average) to a nonfluctuating monthly amount. The same conversion method is used to determine countable available income in BEM 505.

Fluctuating income: Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. BEM 505, page 2

Prospect income using a best estimate of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. To prospect income, you will need to know:

- The type of income and the frequency it is received (such as, weekly).

- The day(s) of the week paid.
- The date(s) paid.
- The gross income amount received or expected to be received on each pay date.
BEM 505, page 4

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- **Multiply amounts received every two weeks by 2.15. (Emphasis added)**
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

In the instant case, Petitioner was working and had earned income. The Department counted \$2,322 monthly gross earned income (However, Petitioner's paystubs indicate that her spouse earned \$2,880 per month because the spouse earned \$1,440 every two weeks in salary).

Petitioner was given a \$465.00 earned income deduction for post earned income deduction income of \$1,857.

Petitioner was then given the standard deduction of \$158 for an Adjusted Gross income of \$1,699.

Petitioner was given an excess shelter deduction of \$552.

\$1,699 in adjusted gross income - \$552 in excess housing deduction = \$1,147 in net income.

\$1,147 in net income x .30 (net income) = \$345.

The maximum for monthly FAP benefits for a three-person group = \$505.

\$505 maximum benefit - \$345 (30% of net income) = \$160 in monthly FAP benefit allotment.


A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with information that Petitioner now receives less monthly earned income, the Department can reassess Petitioner's eligibility for increased Food Assistance Program benefits.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for \$160.00 per month in Food Assistance Program benefits based upon the income that was counted. The Department has established that Petitioner's FAP benefits should be reduced by a preponderance of the evidence. However, if Petitioner's income is higher than counted, the Department must reassess Petitioner's income and Food Assistance Program benefit eligibility. The income counted for FAP benefit assessment is not reflected in Petitioner's paystubs for either gross or net income. This Administrative Law Judge is uncertain how the Department determined that Petitioner's gross monthly income was \$2,322 based upon the evidence submitted at the hearing.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**. The Department is **ORDERED** to reassess Petitioner's eligibility for FAP benefits using the appropriate amount of earned income and pay to Petitioner any benefits to which she is entitled, if otherwise eligible, after the reassessment with the corrected amount of income.

LL/hb



Landis Lain
Administrative Law Judge
for Robert Gordon, 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

Susan Noel
26355 Michigan Ave
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]