



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 6, 2016
MAHS Docket No.: 16-005137
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on June 01, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included group member and husband [REDACTED] and the Petitioner's daughter [REDACTED]. [REDACTED] represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Petitioner's eligibility for 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. The Petitioner is an ongoing Food Assistance Program (FAP) recipient as a senior/disabled/veteran (SDV) group of two.
2. The Petitioner's husband receives monthly earned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 2 – 3.
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 4 – 6.
4. The Petitioner's husband receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 7 – 9.

5. The Petitioner receives monthly income from a pension in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 10 – 11.
6. The Petitioner and her husband are each responsible for Medicare Part B premiums of \$ [REDACTED] Department Exhibit A, p 25.
7. The Petitioner has an \$ [REDACTED] monthly housing expenses and pay heating costs separately from housing expenses. Exhibit A, p 33.
8. Due to Department error, the Department had been applying a \$ [REDACTED] medical expense on a monthly basis without verification that this expense was ongoing and actually incurred, which resulted in the Petitioner receiving a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 12.
9. On April 5, 2016, the Department notified the Petitioner that it would close her Food Assistance Program (FAP) benefits as of May 1, 2016, based on the group's income. Exhibit A, pp 32 – 33.
10. On April 14, 2016, the Department received the Petitioner's request for a hearing protesting the reduction of her Food Assistance Program (FAP) benefits. Exhibit A, p 1.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross

amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 7-8.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A FAP group is not required to, but may voluntarily report changes during the benefit period. The Department will process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), pp 8 – 9.

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. Budget it for one month.
2. Average it over the remainder of the first 12 months of the benefit period.
3. Average it over the remainder of the 24-month benefit period. BEM 554.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

The Petitioner is an ongoing FAP recipient and was receiving a \$ [REDACTED] monthly allotment of FAP benefits until April 30, 2016. The Department's representative testified that due to Department error, medical expenses were being applied towards the Petitioner's eligibility for FAP benefits without verification that they were ongoing or actually incurred by the Petitioner. On April 5, 2015, the Department removed the unverified expenses from the Petitioner's budget and redetermined her eligibility for benefits.

The Petitioner receives monthly RSDI in the gross monthly amount of \$ [REDACTED] and pension income in the gross monthly amount of \$ [REDACTED]. The Petitioner's husband receives monthly RSDI in the gross monthly amount of \$ [REDACTED] earned income in the gross monthly amount of \$ [REDACTED]. The monthly earned income was determined by multiplying his \$ [REDACTED] gross weekly earnings by the 4.3 conversion factor as directed by BEM 505. The group's adjusted gross income of \$ [REDACTED] was determined by reducing the earned income by the 20% earned income deduction and adding the remaining unearned income rounding to even dollar amounts.

All FAP recipients are entitled to a deduction for shelter expenses and the Petitioner had provided the Department with verification of a \$ [REDACTED] monthly housing expenses and that she has a separate obligation for hearing expenses, which entitled her to the flat \$539 heat and utility deduction. In this case, the Petitioner's total shelter expenses are less than 50% of the group's adjusted gross income and therefore they do not receive a shelter deduction.

With no available shelter deduction, the Petitioner's net income is the same as her adjusted gross income. The net income limit for a group of two is \$ [REDACTED] and therefore the Petitioner is not eligible for FAP benefits based on this income. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2015), p 1.

As a SDV benefit group, the Petitioner is entitled to a deduction for medical expenses that exceed \$35. As of April 5, 2016, the only verified medical expenses reported to the Department were the \$ [REDACTED] Medicare Part B premiums paid by the Petitioner and her husband.

The Department's exhibits do not seem to indicate that the Petitioner was given credit for the Medicare Part B premiums on their FAP budget. This Administrative Law Judge finds this to be harmless error and the Petitioner has not established that the group is eligible for FAP benefits. If Medicare monthly premiums totaling \$ [REDACTED] are reduced by the \$35 standard deduction, the Petitioner's adjusted gross income would be reduced to \$ [REDACTED] which is still more than twice the monthly shelter deduction. A group of two with an adjusted gross income of \$ [REDACTED] and shelter deductions that are less than 50% of the adjusted gross income, is not eligible to receive FAP benefits. RFT 250

The Petitioner's witness questioned whether the Department would counting the Petitioner's pension income twice but the Department's representative explained that verification of two months of pension income was provided to show that this income is ongoing.

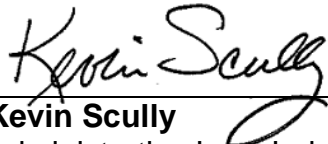
The Petitioner's witness offered to submit the Petitioner's credit report as evidence that there are ongoing medical expenses. This Administrative Law Judge finds that this evidence was not relevant with respect to the closure of FAP benefits because the credit report does not verify when the expenses were incurred and these expenses had not been verified to the Department before April 5, 2016. Based on the information the Department had on April 5, 2016, this Administrative Law Judge finds that the Department determined the group's eligibility for FAP benefits in accordance with policy.

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 the Petitioner's eligibility for Food Assistance Program (FAP) benefits as of May 1, 2016.

DECISION AND ORDER

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

KS/las



Kevin Scully
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) 335-6088; 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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]