



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: November 22, 2016
MAHS Docket No.: 16-014601
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, an in-person hearing was held on November 15, 2016, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] (Family Independence Manager), [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's current level of 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. Petitioner is an ongoing Food Assistance Program (FAP) recipient as a group of one and is considered to be a senior/disabled/veteran (SDV) group.
2. The Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED].
3. Petitioner is responsible for monthly shelter expenses of \$ [REDACTED] and he is responsible for heating expenses separate from his shelter expenses.
4. On September 14, 2016, the Department notified Petitioner that he remained eligible for Food Assistance Program (FAP) benefit with a \$ [REDACTED] monthly allotment effective October 1, 2016.

5. On September 30, 2016, the Department received Petitioner's request for a hearing.

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 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).

Petitioner is an ongoing FAP recipient as a group of one and he is considered to be a senior/disabled/veteran (SDV) recipient. Petitioner receives SSI benefits in the gross monthly amount of \$ [REDACTED] and State Supplemental Security Income (SSP) in the gross monthly amount of [REDACTED], which are defined as unearned income under BEM 500 and are his sole source of income. SSP benefits are paid quarterly and the gross monthly amount was determined by dividing his quarterly benefit by 3. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his total income by the \$ [REDACTED] standard deduction. Petitioner did not claim any allowable medical or dependent deductions. Petitioner is not entitled to an earned income deduction because he does not receive any earned income.

A FAP group is not eligible for benefits if the gross monthly income exceeds 130% of the federal poverty level listed in RFT 250, except that a SDV group is considered categorically eligible exempt from this requirement. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 3. Petitioner's gross income is less than 130% of the federal poverty level, but would not be denied benefits if it did as a SDV group.

FAP recipients are entitled to a deduction for allowable shelter expenses. Petitioner has monthly housing expenses of \$ [REDACTED] and is entitled to the \$ [REDACTED] standard heat and utility deduction because he is responsible for heating expenses separate from his shelter expense. Petitioner's monthly excess shelter deduction of \$ [REDACTED] was determined by reducing the total of his monthly shelter deductions by 50% of his adjusted gross income as directed by BEM 556.

Petitioner's net income of \$ [REDACTED] was determined by reducing his adjusted gross income by his monthly shelter excess shelter deduction as directed by BEM 556. Petitioner's \$ [REDACTED] monthly allotment of FAP benefits was determined by the maximum benefit level of \$ [REDACTED] by 30% of his net income, which is consistent with the table in RFT 260. BEM 556, p 5.

Based on the evidence and testimony available during the hearing, the Department has established that it determined Petitioner's current level of benefits in accordance with Department policy.

Petitioner argued that the Department's determination of his eligibility for FAP benefits is inconsistent with the Food and Nutrition Act of 2008. The following federal regulations govern eligibility for Supplemental Nutrition Assistance Program (SNAP) benefits:

For the purpose of determining the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. 7 CFR 273.10 (c)(1)(i).

* * *

Deductible expenses include only certain dependent care, shelter, medical and, at State agency option, child support costs as described in § 273.9. 7 CFR 273.10 (d).

* * *

(1) Net monthly income.

(i) To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members and the total monthly unearned income of all household members, minus income exclusions, to determine the household's total gross income. Net losses from the self-employment income of a farmer shall be offset in accordance with § 273.11(a)(2)(iii).

(B) Multiply the total gross monthly earned income by 20 percent and subtract that amount from the total gross income; or multiply the total gross monthly earned income by 80 percent and add that to the total monthly unearned income, minus income exclusions. If the State agency has chosen to treat legally obligated child support payments as an income exclusion in accordance with § 273.9(c)(17), multiply the excluded earnings used to pay child support by 20 percent and subtract that amount from the total gross monthly income.

(C) Subtract the standard deduction.

(D) If the household is entitled to an excess medical deduction as provided in § 273.9(d)(3), determine if total medical expenses exceed \$35. If so, subtract that portion which exceeds \$35.

(E) Subtract allowable monthly dependent care expenses, if any, up to a maximum amount as specified under § 273.9(d)(4) for each dependent.

(F) If the State agency has chosen to treat legally obligated child support payments as a deduction rather than an exclusion in accordance with § 273.9(d)(5), subtract allowable monthly child support payments in accordance with § 273.9(d)(5).

(G) Subtract the homeless shelter deduction, if any, up to the maximum of \$143.

(H) Total the allowable shelter expenses to determine shelter costs, unless a deduction has been subtracted in accordance with paragraph (e)(1)(i)(G) of this section. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(I) of this section.

(I) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. Households not subject to a capped shelter

expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined. 7 CFR 273.10 (e).

* * *

(2) Eligibility and benefits. (i)(A) Households which contain an elderly or disabled member as defined in § 271.2, shall have their net income, as calculated in paragraph (e)(1) of this section (except for households considered destitute in accordance with paragraph (e)(3) of this section), compared to the monthly income eligibility standards defined in § 273.9(a)(2) for the appropriate household size to determine eligibility for the month.

(B) In addition to meeting the net income eligibility standards, households which do not contain an elderly or disabled member shall have their gross income, as calculated in accordance with paragraph (e)(1)(i)(A) of this section, compared to the gross monthly income standards defined in § 273.9(a)(1) for the appropriate household size to determine eligibility for the month.

(C) For households considered destitute in accordance with paragraph (e)(3) of this section, the State agency shall determine a household's eligibility by computing its gross and net income according to paragraph (e)(3) of this section, and comparing, as appropriate, the gross and/or net income to the corresponding income eligibility standard in accordance with § 273.9(a) (1) or (2). 7 CFR 273.10 (e).

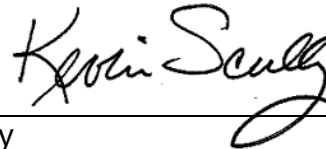
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This Administrative Law Judge finds that the Department's determination of Petitioner's eligibility for FAP benefits is consistent with the federal regulations.

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 current level of Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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



KS/nr

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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]