



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 1, 2016
MAHS Docket No.: 16-001209
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on February 29, 2016, from Monroe, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner to be income-ineligible 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 was an ongoing FAP recipient and member of a 5 person FAP benefit group.
2. Petitioner received gross monthly income of \$550.00 in a pension and \$1205.90 in Retirement, Survivors, and Disability Insurance (RSDI).
3. Petitioner's four other household members each received \$417.00 in monthly RSDI.

4. On [REDACTED], MDHHS terminated Petitioner's FAP eligibility, effective January 2016, due to excess income, in part, based on \$3424.00 in monthly income.
5. On [REDACTED], Petitioner requested a hearing to dispute the termination of FAP eligibility.

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner submitted a signed hearing request to MDHHS on [REDACTED]. The explanation for requesting a hearing was completed by a MDHHS supervisor. The only dispute indicated on the hearing request concerned a closure of FAP benefits.

Petitioner testified he verbally informed MDHHS that he wanted a hearing to dispute his entire case. Petitioner testimony did not specify what he meant by "entire case" though he referenced complaints of Medical Assistance (MA) eligibility.

Requests for a hearing must be made in writing and signed by [a client or authorized hearing representative]. BAM 600 (October 2015), p. 2. For Food Assistance Program (FAP) only, a hearing request may be written or oral.

Petitioner did not request a hearing in writing to dispute any program other than FAP eligibility. Accordingly, Petitioner is not entitled to a hearing or administrative remedy about any program other than FAP benefits.

Petitioner testimony indicated he wanted a hearing to dispute all FAP determinations from the last 7 years. Petitioner essentially alleged he verbally requested a hearing on the issue but MDHHS failed to document his dispute.

During the hearing, Petitioner made several allegations of MDHHS misdeeds. Petitioner was asked why he allowed MDHHS to complete his hearing request form, given his obvious mistrust of the agency. Petitioner responded he is unable to read and/or write, and therefore, he could not complete the request himself. Petitioner's testimony was curious because he lived with nieces who could read and write (Petitioner expressed optimism one niece would become a physician). During the hearing, Petitioner was asked why he did not have his nieces complete the hearing request form rather than MDHHS; Petitioner responded he did not inform his nieces of the assistance he

received. Petitioner's excuse was again curious because he brought one of his nieces with him to the hearing.

MDHHS testimony indicated the supervisor who completed Petitioner's hearing request went over the request with Petitioner to insure that Petitioner only disputed a closure of FAP benefits. The testimony was not first-hand, though was more credible than Petitioner's testimony. It is found Petitioner requested a hearing only to dispute a termination of FAP benefits.

During the hearing, Petitioner was informed that the hearing would only address the closure of FAP eligibility. Petitioner alleged that his due process was denied. It should be noted nothing within this decision precludes Petitioner from requesting a hearing concerning 7 years of his entire case. This decision only states that Petitioner did not request a hearing concerning 7 years of his entire case on his hearing request dated February 5, 2016.

The analysis will proceed to determine if MDHHS properly terminated Petitioner's FAP eligibility, effective January 2016. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 5) dated [REDACTED]. The stated reason for termination was excess income. BEM 556 details the procedures for determining FAP eligibility.

The presented Notice of Case Action included a budget summary for all FAP amounts factored by MDHHS. During the hearing, Petitioner was given an opportunity to dispute all budgeted income and expenses. The below analysis incorporates Petitioner's responses.

It was not disputed that Petitioner received \$550.00/month in gross pension income. Petitioner credibly testified that his pension income was reduced \$10.00/month due to taxes. [For all programs, MDHHS is to] count the gross [retirement] benefit as unearned income. BEM 503 (October 2015), p. 27. MDHHS should have factored Petitioner's pension income to be \$550.00/month.

It was not disputed that Petitioner received \$1,205.90/month in gross RSDI. Petitioner credibly testified that his RSDI was reduced \$104.90/month for a Medicare premium. Bridges [the MDHHS database] counts the gross [RSDI] benefit amount as unearned income. *Id.*, p. 28. MDHHS should have factored Petitioner RSDI to be \$1205.90/month.

It was not disputed Petitioner's 4 nieces each received \$417.00/month in RSDI. Adding Petitioner's gross income and his niece's RSDI income results in a total countable monthly income of \$3424.00 (rounding to nearest dollar), the same amount as counted by MDHHS.

[MDHHS] uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-

ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It is presumed that Petitioner is disabled and/or aged based on Medicare eligibility.

Verified medical expenses for SDV groups, child support, and day care expenses are subtracted from a client's monthly countable income. Petitioner conceded not having day care or child support expenses. Petitioner disputed budgeted medical expenses.

Petitioner testified his medical expenses included \$104.90 for a Medicare Part B premium and \$95.00 for a Part D premium. The medical expenses alleged by Petitioner totaled \$200.00 (rounding to nearest dollar). MDHHS applies a \$35.00 deductible to medical expenses rendering Petitioner eligible for \$165.00/month in countable medical expenses. MDHHS factored Petitioner was eligible to receive \$171.00 in medical expenses. For purposes of this decision, the higher and more Petitioner-favorable amount will be accepted as correct. It is found Petitioner is entitled to \$171.00 in medical expenses. Petitioner's running countable income is \$3,253.00.

Petitioner's FAP benefit group receives a standard deduction of \$196.00. RFT 255 (October 2015), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's FAP group's adjusted gross income is found to be \$3057.00

MDHHS budgeted \$1318.10 in housing expenses. Petitioner conceded the amount to be correct.

MDHHS credited Petitioner with the maximum utility standard of \$539.00 (see RFT 255). Petitioner's total shelter expenses are found to be \$1,857.00 (rounding to nearest dollar).

MDHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is found to be \$329.00 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Petitioner's FAP benefit group's net income is found to be \$2,728.00. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income Petitioner is ineligible for FAP benefits.

Petitioner also alleged that MDHHS and/or the undersigned discriminated against him because of his status as a white male. Petitioner's allegation was utterly unsubstantiated. Presented evidence only established that MDHHS properly terminated Petitioner's FAP eligibility due to excess income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be ineligible for FAP benefits, effective January 2016. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki
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



Petitioner

