



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: April 29, 2016
MAHS Docket No.: 16-002423
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. A hearing was scheduled for April 7, 2016, but the Petitioner was mistakenly sent away from the Department's Saginaw County office before the hearing could begin. On April 11, 2016, the Michigan Administrative Hearing System (MAHS) entered an Adjournment Order, and the case was rescheduled. After due notice, telephone hearing was held on April 27, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for the Food Assistance Program (FAP)?

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 group of one. Exhibit A, p 5.
2. On November 20, 2015, the Petitioner reported to the Department that she would be evicted from her home effective December 1, 2015. Exhibit A, p 16.
3. The Claimant 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] Exhibit A, pp 21 – 25.

4. On December 9, 2015, the Department notified the Petitioner that it would reduce her monthly allotment of Food Assistance Program (FAP) benefits to \$ [REDACTED] per month effective January 1, 2016. Exhibit A, pp 5 – 8.
5. On February 22, 2016, the Department received the Petitioner's request for a hearing protesting the amount Food Assistance Program (FAP) she is receiving. Exhibit A, pp 1 – 4.

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).

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 14.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. The expense must be a continuing one. BEM 554, pp 12 – 13.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. This includes reporting any change of address or shelter costs. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

The Petitioner is an ongoing FAP recipient as a group of one, and on November 20, 2015, she reported to the Department that she was being evicted from her home effective December 1, 2015. The Department was required to remove housing expenses from her FAP budget pending the receipt of verification of any new housing obligation as directed by BEM 554. When no verification of a new housing expense obligation was received by December 9, 2015, the Department redetermined the Petitioner's eligibility for continuing FAP benefits effective January 1, 2016, which was the next eligibility period.

The Petitioner received monthly SSI and SSP income in the total gross monthly amount of \$█ an amount not disputed during the hearing. The Petitioner's adjusted gross income of \$█ was determined by reducing her total monthly income by the \$█ standard deduction. The Petitioner was no longer eligible for a deduction for shelter expenses after her housing and utility obligations were removed from the eligibility determination budget. Therefore, the Petitioner's net income was the same as her adjusted gross income.

A group of one with a net income of \$█ is entitled to a \$█ monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016).

The Petitioner argued that it was unfair to reduce her food assistance benefits after losing her home.

When determining a person's eligibility for FAP benefits, the Department is required to consider all countable income unless excluded by policy and may only reduce this income by countable expenses allowed by policy. In this case, the Department presented substantial evidence that it included all countable income and expenses in its determination of the Petitioner's eligibility for FAP benefits.

The Petitioner testified that after losing her home, she moved to a motel, where she was forced to use all of her savings.

The Department is prohibited from counting these expenses towards the Petitioner's eligibility for FAP benefits because they are not considered to be continuing expenses.

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 effective January 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]