



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: February 14, 2017
MAHS Docket No.: 17-000394
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 February 08, 2017, from Lansing, Michigan. The Petitioner represented herself and her husband [REDACTED] testified on her behalf. The Department was represented by [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department of Health and Human Services (Department) properly determined Petitioner's monthly allotment of 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 three.
2. On November 30, 2016, the Department received Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 4-10.
3. The Petitioner's husband receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 13.
4. The Petitioner receives monthly child support income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 13.

5. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$█ Exhibit A, pp 14-15.
6. Petitioner has a \$█ monthly housing expenses and is responsible for heating utilities. Exhibit A, p 17.
7. On December 28, 2016, the Department notified Petitioner that she was eligible for a \$█ monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2017. Exhibit A, pp 16-19.
8. On January 9, 2017, the Department received Petitioner's request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 2-3.

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).

The Department will use the average of child support payments received in the past three calendar months, unless changes are expected. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2016), p 5.

Petitioner was an ongoing FAP recipient as a group of three when the Department received her completed Redetermination (DHS-1010) form on November 30, 2016. Based on the information contained in the Redetermination form, some of which had not

been applied towards her FAP eligibility previously, the Department determined that Petitioner was eligible for a \$ [REDACTED] monthly allotment of FAP benefits effective January 1, 2017.

Respondent receives unearned income in the gross monthly amount of \$ [REDACTED] which was determined from the sum of Petitioner's child support income in the gross monthly amount of \$ [REDACTED] Petitioner's RSDI benefits in the gross monthly amount of \$ [REDACTED] and the husband's RSDI benefits in the gross monthly amount of \$ [REDACTED]. The gross monthly RSDI benefits were determined from the gross benefits as reported by the Social Security Administration as directed by BEM 500, although the actual amount received is a lesser amount. Petitioner's child support income was determined from a three month average of support payments received as directed by BEM 505.

Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her total monthly income by the \$ [REDACTED] standard deduction. Petitioner is entitled to a \$ [REDACTED] excess shelter deduction, which was determined by reducing the total of her \$ [REDACTED] housing expense and the \$ [REDACTED] standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net monthly income of \$ [REDACTED] was determined by reducing her adjusted gross income by the excess shelter deduction. A group of three with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2016).

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 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2017.

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]

Petitioner

[REDACTED]