



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: March 13, 2017  
MAHS Docket No.: 17-000886  
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. The hearing was scheduled for February 16, 2017, and it was adjourned on February 16, 2017. After due notice, telephone hearing was held on March 8, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] [REDACTED]

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine 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. Petitioner is an ongoing Food Assistance Program (FAP) recipient as a group of one.
2. The Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED]
3. Petitioner lives in the same household as his adult son who receives Food Assistance Program (FAP) benefits as his own benefit group. Exhibit A, p 5.
4. Petitioner has a \$ [REDACTED] monthly housing expense, which includes heat expenses, but Petitioner is responsible for electricity charges over a certain amount. Exhibit A, p 12.

5. Petitioner reported an \$ [REDACTED] monthly child support expense. Exhibit A, p 9.
6. On December 14, 2016, the Department notified Petitioner that he was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2017. Exhibit A, pp 15-18.
7. On January 20, 2017, the Department received Petitioner's request for a hearing. Exhibit A, pp 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 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).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (October 1, 2015), p 1

For all Food Assistance Program (FAP) groups that received the heat and utility standard on or before February 7, 2014, the heat and utility standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the heat and utility standard beyond the expiration of the five month period, the Food Assistance Program (FAP) group must meet the requirements of the mandatory heat

and utility standard section. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 15.

Petitioner is an ongoing FAP group of one. Petitioner lives with his adult son who receives FAP benefits as part of a separate benefit group. Petitioner receives monthly social security benefits in the gross monthly amount of \$ [REDACTED] which was not disputed during the hearing. Petitioner has an \$ [REDACTED] monthly housing expenses, which includes heat expenses, but Petitioner is responsible for electricity charges over a certain amount.

Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his total gross monthly income by the \$ [REDACTED] standard deduction and an \$ [REDACTED] child support deduction, which was not disputed during the hearing. Petitioner is entitled to a \$ [REDACTED] excess shelter deduction, which was determined by adding his \$ [REDACTED] monthly housing expenses to the \$ [REDACTED] standard non-heat electricity deduction, the \$ [REDACTED] standard telephone deduction, then subtracting 50% of his adjusted gross income. Petitioner's heating expenses are included in his monthly housing expenses. Petitioner receives a \$ [REDACTED] non-heat electricity deduction despite the fact that his actual expenses was \$ [REDACTED]

Petitioner's net income of \$ [REDACTED] was determined by reducing his adjusted gross income by his excess shelter deduction. A group of one 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).

Petitioner argued that he should receive the standard heat and utility deduction because he meets the criteria for the home heating credit, and because his electric bill obligation is higher during the heating season.

However, Petitioner's current heating expense obligation is already considered as part of his excess shelter deduction. Furthermore, the fact that his electric bill is higher when his heater is running does not make this expenses a heating obligation or entitle him to the standard heat and utility deduction.

Petitioner testified that he had requested a new caseworker be assigned to him.


This Administrative Law Judge lacks the authority to order to Department to reassign Petitioner's case to a difference caseworker. A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

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 eligibility for Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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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]