



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 28, 2017
MAHS Docket No.: 17-002417
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 March 22, 2017, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] [REDACTED] Lead Worker.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the monthly allotment of Petitioner's 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 he is considered to be a senior/disabled/veteran (SDV) group.
2. On December 1, 2016, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment of benefits as of January 1, 2017. Exhibit A, pp 16-19.
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 11-13.
4. Petitioner has monthly housing expenses of \$ [REDACTED] and is responsible for heat expenses separate from housing expenses.

5. On January 13, 2017, Petitioner received notification from the Social Security Administration that premiums for Medicare Part B would be deducted from his Retirement, Survivors, and Disability Insurance (RSDI) benefits. Exhibit A, p 10.
6. On January 7, 2017, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$ [REDACTED] monthly allotment of benefits as of February 1, 2017. Exhibit A, pp 3-6.
7. On February 22, 2017, the Department received Petitioner's verbal request for a hearing protesting the amount of his monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.

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).

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$ [REDACTED] medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner was an ongoing FAP recipient as a SDV group of one in January of 2017. Petitioner received Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his total monthly income by the \$ [REDACTED] standard deduction. Petitioner did not report any unreimbursed medical expenses and his Medicare Premiums were being paid for by the Department. Petitioner is entitled to a \$ [REDACTED] excess shelter deduction, which was determined by reducing the sum of his \$ [REDACTED] monthly housing expense and the \$ [REDACTED] standard heat and utility deduction by 50% of his adjusted gross income.

Petitioner's net income of \$ [REDACTED] for January of 2017 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 was an ongoing FAP recipient as a SDV group of one in February of 2017. Petitioner receive RSDI benefits in the gross monthly amount of \$ [REDACTED]. Since the Department stopped paying Petitioner's Medicare Part B premium, his net RSDI income decreased. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing his total monthly income by the \$ [REDACTED] standard deduction for a group of one, and a \$ [REDACTED] deduction for medical expenses, which was determined by reducing his Medicare Part B premium by the standard \$ [REDACTED] deduction as directed by BEM 556. Petitioner's excess shelter deduction of \$ [REDACTED] was determined by reducing his shelter expenses by 50% of his adjusted gross income for February of 2017.

Petitioner's net income of \$ [REDACTED] for February of 2017 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. RFT 260.

This Administrative Law Judge finds that despite the fact that Petitioner had an obligation to pay an additional medical expense of \$ [REDACTED] per month, this entitles him to only an extra \$ [REDACTED] in FAP benefits per month, and that this was a proper application of Department policy.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 monthly allotment of Petitioner's Food Assistance Program (FAP) benefits.

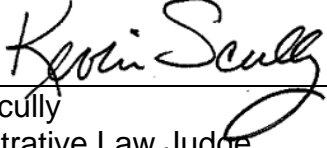
Requests for a hearing must be made in writing and signed by an adult member of the eligible group or the client's authorized hearing representative, except that for FAP only, a hearing request may be written or oral. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2016), p 2.

In this case, Respondent made an oral request for a hearing protesting his monthly allotment of FAP benefits. Respondent testified that he also disagreed with the Department's closure of his Medicare Savings Program (MSP) benefits, but since his request for a hearing was an oral request, the closure of MSP benefits could not be considered during this hearing.

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]