



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 3, 2017
MAHS Docket No.: 17-011381
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 September 27, 2017, from [REDACTED] Michigan. The Petitioner was represented by her daughter, [REDACTED] and she testified on her own behalf. The Department was represented by [REDACTED]

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application 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. On August 11, 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a group of three.
2. The Petitioner receives monthly earned income in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 9-10.
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 11.
4. A member of Petitioner's benefit group receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 12.

5. A member of Petitioner's benefit group 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, p 14.
6. Another member of Petitioner's benefit group receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 13.
7. Another member of Petitioner's benefit group 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, p 15.
8. Petitioner is responsible for housing expenses in the monthly amount of \$ [REDACTED] and is responsibility for heat and utility expenses separate from housing expenses.
9. On August 15, 2017, the Department notified Petitioner that it had denied her Food Assistance Program (FAP) application based on household income. Exhibit A, pp 16-19.
10. On August 24, 2017, the Department received Petitioner's request for a hearing protesting the denial of her Food Assistance Program (FAP) application. Exhibit A, pp 3-4.

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 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 (July 1, 2017).

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 (January 1, 2017), p 1.

On August 11, 2017, the Department received Petitioner's application for FAP benefits as a group of three and the Department considers the household to be a Senior/Disabled/Veteran (SDV) benefit group. Petitioner received earned income in the gross monthly amount of \$ [REDACTED]. Petitioner and the other household members receive unearned income totaling \$ [REDACTED] which is the total of the RSDI, SSI and SSP benefits each of them receive on a monthly basis. Monthly SSP benefits are determined by dividing this quarterly benefit by 3. The Department's determination of the group's total monthly income was not disputed during the hearing.

The gross income limit for a group of three is \$ [REDACTED] but this limit does not apply to Petitioner because her household is considered a Senior/Disabled/Veteran (SDV) group. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017), p 1.

The group's adjusted gross income of \$ [REDACTED] was determined by reducing the earned income by the standard 20% earned income deduction and the \$ [REDACTED] standard deduction.

If not for their status as a SDV group, Petitioner's monthly expenses would not have been considered when determining their eligibility for FAP benefits. Petitioner reported monthly housing expenses of \$ [REDACTED] and is obligated to pay heating and utility expenses separately entitling the group to the \$ [REDACTED] standard heat and utility deduction. Petitioner is entitled to an \$ [REDACTED] excess shelter deduction, which was determined by reducing the group's totaling housing expenses by 50% of their adjusted gross income.

Petitioner's net 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 not eligible for FAP benefits. RFT 250, p 1.

Petitioner's representative testified that the income received within Petitioner's household is not sufficient to support their uncommon circumstances.

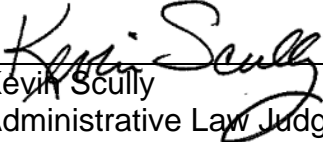
The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Administrative adjudication is an exercise 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 denied Petitioner's Food Assistance Program (FAP) application based on the group's net monthly income.

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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]