



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 29, 2017
MAHS Docket No.: 17-013700
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 November 20, 2017, from Lansing, Michigan. The Petitioner represented herself. The Department was represented by [REDACTED] Family Independence Manager.

ISSUE

Did the Department of Health and Human Services (Department) properly close 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 was an ongoing Food Assistance Program (FAP) recipient as a group of four on July 20, 2017, when the Department received her completed Redetermination (DHS-1010) form. Exhibit A, pp 1-8.
2. Petitioner receives income from two land contracts in the gross monthly amount of \$ [REDACTED] and \$ [REDACTED] Exhibit A, pp 14-21.
3. The Petitioner receives monthly child support in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 23-26.
4. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 27-29.
5. Petitioner is responsible for paying Medicare premiums in the monthly amount of \$ [REDACTED] Exhibit A, p 27.

6. On October 4, 2017, the Department notified Petitioner that she was no longer eligible for Food Assistance Program (FAP) benefits effective November 1, 2017. Exhibit A, pp 50-52.
7. On October 8, 2017, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits.

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).

Income received from the sale of real property with payments in installments (example: land contract) falls under the definition of unearned income. Other sales of real property are conversion of an asset from one type to another. The Department counts each installment payment, minus allowable expenses, as unearned income. The seller may remain liable for certain expenses on the property even though the property has been sold. Such expenses are allow-able. Examples include taxes, insurance, and debts secured by property lien. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (July 1, 2017), pp 32-33.

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 (October 1, 2017), pp 4-5.

Petitioner was an ongoing FAP recipient on July 20, 2017, when the Department received her completed Redetermination (DHS-1010) form. Petitioner reported receiving income from two land contracts in the gross monthly amount of \$ [REDACTED] and \$ [REDACTED]. Petitioner also received monthly child support in the gross monthly amount of \$ [REDACTED] which was determined by taking the three month average child support amount as directed by BEM 505, and rounded down to an even dollar amount for each child. Petitioner also received monthly social security benefits in the gross monthly amount of \$ [REDACTED]. The record evidence supports a finding that the Department credibly determined that Petitioner's total gross monthly income is \$ [REDACTED].

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), pp 8 – 9. 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.

In this case, Respondent reported being responsible for paying monthly Medicare premiums from her social security benefits in the monthly amount of \$ [REDACTED] which entitled her to a \$ [REDACTED] medical deduction for her FAP benefits. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her total monthly income by the \$ [REDACTED] standard deduction and her \$ [REDACTED] medical deduction.

A deduction for shelter expenses is available for FAP recipients. Petitioner reported that she has a monthly housing expenses of \$ [REDACTED] and she is obligated to pay heating expenses separately from that expenses, which entitled her to the \$ [REDACTED] standard heat and utility deduction. FAP recipients that are eligible for the standard heat and utility deduction are not eligible for other shelter expenses.

However, because Petitioner's countable shelter deductions are less than 50% of her adjusted gross income, she is not eligible for a shelter deduction. Therefore, Petitioner's net income is the same as her adjusted gross income.

A group of four with a net income of \$ [REDACTED] is not eligible for FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017), p 1.

Petitioner reported that the properties being sold by land contract remain financed and that she is obligated to pay monthly loan payments for those properties.

The Department is allowed to reduce unearned income received from land contracts for countable expenses, but debts must be secured by a property lien to be countable. In this case, Petitioner does not dispute that these debts are not secured by a property lien.

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 that Petitioner is not eligible for Food Assistance Program (FAP) benefits effective November 1, 2017, based on her monthly net 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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]