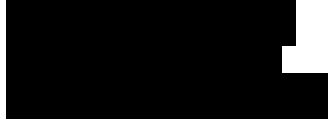




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 7, 2017
MAHS Docket No.: 17-010096
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 6, 2017, from Detroit, Michigan. Petitioner was present and represented herself. Petitioner's husband, [REDACTED], was present. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, Hearings Facilitator.

ISSUE

Did the 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. Petitioner submitted an application for FAP benefits on [REDACTED], 2017, (Exhibit A, pp. 1-46).
2. Petitioner had six individuals in her household, which comprised of her, her husband, two minor daughters, one adult daughter and an unrelated adult male.
3. Petitioner reported employment income for her husband and the adult male (Exhibit C, p. 1).
4. Petitioner's adult daughter was enrolled in community college full-time and was not employed.

5. Petitioner had no Senior/Disabled/Veteran (SDV) members in her household.
6. The Department sent Petitioner a Notice of Case action on June 6, 2017, stating her FAP benefits were denied for exceeding the gross income limit (Exhibit B, pp. 1-4).

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.

In this case, the Department sent Petitioner a Notice of Case action on June 6, 2017, stating her FAP benefits were denied for exceeding the gross income limit. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250.

Petitioner submitted an application for FAP benefits on [REDACTED], 2017, indicating there were six individuals in her household. Included were Petitioner, Petitioner's husband, Petitioner's two minor children, Petitioner's [REDACTED]-year-old daughter and an unrelated adult male. The [REDACTED]-year-old daughter was not employed but was enrolled in a full-time community college program. The unrelated adult male purchased and prepared food with the rest of the household.

Although Petitioner had six individuals residing in her household, the Department correctly determined the group size to be five. The Department properly included the adult male as a group member, as persons who live together and purchase and prepare food together are members of the FAP group. BEM 212 (January 2017), p. 6. The Department also accurately excluded the adult daughter from the group. A person is in student status if she is: age 18 through 49 and enrolled half-time or more in a: vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate, or a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (April 2017), pp. 3-4. A person in student status must meet certain criteria in order to be eligible for assistance. BEM 245, p. 4. Petitioner's adult daughter was in student status and did not meet any of the criterion set forth in BEM 245 to be eligible for benefits. Therefore, Petitioner's adult daughter was properly excluded from the FAP group.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1–5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8.

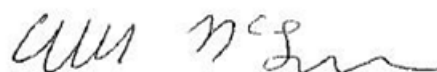
At the time of application, Petitioner's husband and the adult male living in the home were the only individuals with income. Petitioner's husband was paid twice per month. Petitioner submitted her husband's two paychecks from the month of April 2017 in the amounts of \$1,612.91 and \$1,385.91. The Department added the two amounts together for a standard monthly amount of \$2,998. Petitioner informed the Department the adult male was paid twice per month and worked 40 hours per week, at \$13.50 per hour. The Department calculated that he was paid \$1,080 twice per month, for a standard monthly amount of \$2,160. The Department accurately determined that the household income was \$5,158 per month.

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, Column D (October 2016), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a five-person FAP group, the applicable 200% gross income limit is \$4,740. As Petitioner's household gross income was \$5,158, the gross income limit for FAP eligibility was exceeded. Thus, Petitioner is not entitled to FAP benefits and the Department properly denied her application.

DECISION AND ORDER

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 application for FAP benefits due to exceeding the gross income limit.

Accordingly, the Department's decision is **AFFIRMED**.



EM/jaf

Ellen McLemore
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

MDHHS-Macomb-20-Hearings

Petitioner



BSC4
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