



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: March 15, 2018
MAHS Docket No.: 18-001076
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 7, 2018, from [REDACTED] Michigan. Petitioner represented herself. The Department was represented by [REDACTED] and [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. On January 10, 2018, the Department received a Verification of Employment (DHS-38) showing that Petitioner was employed at a rate of \$ [REDACTED] per hour and expected to work 40 hours per week.
2. Petitioner received a paycheck in the gross amount of \$ [REDACTED] on December 1, 2017, \$ [REDACTED] on December 15, 2017, \$ [REDACTED] on December 29, 2017, [REDACTED] on January 12, 2018, and \$ [REDACTED] on January 26, 2018.
3. On January 22, 2018, the Department notified Petitioner that she was no eligible for Food Assistance Program (FAP) benefits as of January 2, 2018.
4. On January 25, 2018, the Department notified Petitioner that she was eligible for Food Assistance Program (FAP) benefits effective January 2, 2018.
5. On January 26, 2018, the Department received Petitioner's request for a hearing.

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 (July 1, 2017).

Petitioner applied for FAP benefits on January 2, 2018. On January 10, 2018, the Department received a Verification of Employment (DHS-38) showing that Petitioner is employed at a rate of \$ [REDACTED] per hour. Based on this information, the Department determined that Petitioner was not eligible for FAP benefits because her gross income of \$ [REDACTED] which was determined by multiplying \$ [REDACTED] by 40 hours and the 2.15 conversion rate rounding up to the nearest dollar, exceeded the gross income limit of \$ [REDACTED] Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017), p 1.

Petitioner then reported that her earned income received in December of 2017, and the beginning of January of 2018, was not representative of her ongoing income because the number of hours she expected to work was being reduced.

The Department redetermined Petitioner's gross monthly earned income and granted FAP benefits effective January 2, 2018, and ongoing. The benefits Petitioner received in January of 2018 were based on a gross monthly income of \$ [REDACTED]

It is not clear from the hearing record how the Department determined Petitioner's eligibility for FAP benefits. A gross monthly income of \$ [REDACTED] also exceeds the gross monthly income limit to receive FAP benefits. Further, if the income received on her

paychecks from December 1, 2017, through January 12, 2018, was not likely to continue, then it is not clear how the gross earnings of \$ [REDACTED] was used to determine a gross monthly income of \$ [REDACTED]

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective January 2, 2018.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) benefits as of January 2, 2018, in accordance with policy.

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]