



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 17, 2018  
MAHS Docket No.: 18-003766  
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, a telephone hearing was held on May 10, 2018, from Lansing, Michigan. Petitioner represented herself and [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by [REDACTED].

**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 a Food Assistance Program (FAP) recipient as a group of three at times relevant to this hearing.
2. On [REDACTED], the Department notified Petitioner that she was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits from [REDACTED], through [REDACTED] and a \$ [REDACTED] allotment from [REDACTED], through [REDACTED], but that she was not eligible for FAP benefits effective [REDACTED]. Exhibit A, pp 34-36.
3. On [REDACTED], the Department received copies of the paycheck stubs of a member of Petitioner's Food Assistance Program (FAP) benefit group showing gross earned income of \$ [REDACTED] on [REDACTED], \$ [REDACTED] on [REDACTED] and \$ [REDACTED] on [REDACTED]. Exhibit A, pp 13-15.

4. On [REDACTED], the Department received Petitioner's application for assistance. Exhibit A, pp 22-31.
5. On [REDACTED], the Department received copies of the paycheck stubs of a member of Petitioner's Food Assistance Program (FAP) benefit group showing gross earned income of \$ [REDACTED] on [REDACTED], \$ [REDACTED] on [REDACTED] and \$ [REDACTED] on [REDACTED]. Exhibit A, pp 16-18.
6. The Department's electronic database indicates that a member of Petitioner's Food Assistance Program (FAP) benefit group received earned income is the gross quarterly amounts of \$ [REDACTED] in the fourth quarter of 2017. Exhibit A, p 19.
7. On [REDACTED], the Department received Petitioner's application for assistance. Exhibit A, pp 38-39.
8. On [REDACTED], the Department received Petitioner's request for a hearing. Exhibit A, p 3.
9. On [REDACTED], the Department notified Petitioner that it had denied her A [REDACTED] [REDACTED], application for Food Assistance Program (FAP) benefits. Exhibit A, pp 44-47.
10. On [REDACTED], the Department received a Verification of Employment (DHS-38) showing earned income received from [REDACTED] through [REDACTED].

### **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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.  
Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2018), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

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).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

On [REDACTED], the Department notified Petitioner that she was not eligible for FAP benefits effective [REDACTED]. Petitioner's [REDACTED], request for a hearing is timely with respect to the [REDACTED], because the hearing request was received within 90 days of the mailing of the Notice of Case Action.

The record evidence supports a finding that Respondent's FAP benefit group received earned income in the gross monthly amount of \$ [REDACTED] excluding tips, bonuses, and commissions, which may not have been expected to continue. For a group of three, the

monthly gross income limit is \$ [REDACTED] Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017), p 1. Therefore, the Department was acting in accordance with policy when it closed Petitioner's FAP benefits effective [REDACTED].

The record evidence supports a finding that the Department received Petitioner's application for FAP benefits on [REDACTED]. In the 30 days before this application for assistance was filed, Petitioner's benefit group received earned income in the prospective monthly amount of \$ [REDACTED] which was determined by multiplying the four weekly paychecks received by the 4.3 multiplier. Although the Department failed to provide documentation showing that the [REDACTED], application had been denied, Petitioner failed to establish eligibility for FAP benefits or that her benefit group's gross monthly income was below the gross monthly earned income limit of \$ [REDACTED].

The Department's representative testified that she believed that the relevant negative action in this case was the [REDACTED], denial of the application for assistance received on [REDACTED].

However, the request for a hearing and the application for FAP benefits were both received by the Department on [REDACTED]. Therefore, the [REDACTED], denial of FAP benefits was a subsequent action and not relevant to this hearing decision.

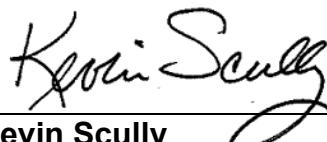
In the alternative, if Respondent was found to have a right to a hearing on the [REDACTED] denial of FAP benefits without filing another hearing request, Petitioner has failed to establish that she meets the income criteria to receive FAP benefits. While there are members of her household that are not eligible to receive FAP benefits based on their immigration status, Petitioner's household is ineligible for FAP benefits as a group of three based on the gross monthly income received by a benefit group member.

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's countable income makes her benefit group ineligible for Food Assistance Program (FAP) benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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**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) 763-0155; 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]