



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 27, 2018
MAHS Docket No.: 18-004924
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 June 20, 2018, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Shanita Gaines and Julie Cyla.

ISSUE

Did the 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 April 15, 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit 3.
2. The Department verified Petitioner's employment and earned income through its electronic database connections. Exhibit 4.
3. On April 16, 2018, the Department sent Petitioner a Shelter Verification (DHS-3688) with an April 26, 2018, due date. Exhibit 5.
4. On May 2, 2018, the Department notified Petitioner that he is eligible for a \$15.00 allotment of Food Assistance Program (FAP) benefits as of May 1, 2018. Exhibit 6.

5. On May 14, 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.

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.

The Department's representative testified that Petitioner has already had a hearing on the issue raised in this hearing. Since Petitioner's request for a hearing in this case was made verbally, there is no way to determine exactly what he was protesting.

However, this Administrative Law Judge was unable to locate a final hearing decision with respect to FAP benefits, which are the only benefits for which Petitioner could make a verbal request.

Petitioner applied for FAP benefits on April 15, 2018. Petitioner reported a child living with him and that he pays child support for this same child. No evidence was presented on the record as to how many nights the child sleeps in Petitioner's home on average in each month. Eligibility for the child's Medicaid was discussed on the record, but Petitioner did not submit a signed hearing request protesting those benefits and those issues will have to be settled in a subsequent hearing.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14.

The Department's representative testified that Petitioner has no housing expenses other than for telephone service, but since Petitioner failed to verify his housing expenses, it was a proper application of policy to determine FAP eligibility without housing expenses.

The Department determined that Petitioner received earned income in the gross monthly amount of \$2,623.00, which was based on Petitioner's paychecks received in the previous 30 days.

The Department failed to provide a FAP budget showing how it arrived at its determination that Petitioner is eligible for FAP benefits as a group of two with a \$15.00 monthly allotment. The Department failed to provide more than the first page of the Notice of Case Action, which probably would have provided the information necessary to re-create a FAP budget and allow Petitioner to review the information used to determine eligibility.

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 as of April 15, 2018.

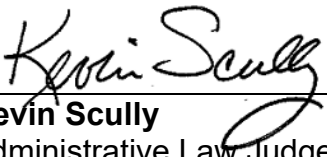
DECISION AND ORDER

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 the Food Assistance Program (FAP) as of April 15, 2018.

KS/hb



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

LaClair Winbush
17455 Grand River Ave
Detroit, MI 48227

Wayne County (District 31), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

