



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 3, 2018
MAHS Docket No.: 18-005231
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 27, 2018, from Lansing, Michigan. Petitioner represented himself and his fiancé [REDACTED] testified on his behalf. The Department of Health and Human Services was represented by Shanna Ward, Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 is a Food Assistance Program (FAP) recipient as a group of one.
2. On December 13, 2017, the Department received Petitioner's request for a hearing protesting his eligibility for Food Assistance Program (FAP) benefits. (See MAHS Docket No 17-016194).
3. On January 24, 2018, the Michigan Administrative Hearing System (MAHS) ordered the Department to redetermine Petitioner's eligibility for Food Assistance Program (FAP) benefits as of October 1, 2017, and issue a supplement for any benefits he was eligible for. (See MAHS Docket No 17-016194).

4. On February 5, 2018, the Department notified Petitioner that he would receive a Food Assistance Program (FAP) supplement for October, November, and December of 2017. Exhibit A, pp 3-6.
5. Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$750 and monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$14. Exhibit A, pp 28-30.
6. On May 10, 2018, the Department notified Petitioner that he was eligible for a \$192 monthly allotment of Food Assistance Program (FAP) benefits as of February 1, 2018. Exhibit A, pp 7-10.
7. On May 31, 2018, the Department notified Petitioner that he would receive a \$47 Food Assistance Program (FAP) supplement for January of 2018. Exhibit A, pp 11-13.
8. On May 21, 2018, the Department received Petitioner's request for a hearing protesting the Department's determination of his eligibility for the Food Assistance Program (FAP). Exhibit A, p 2.

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.

Petitioner is an ongoing FAP recipient as a group of one. Petitioner received a total gross monthly income of \$764, which consists of his SSI and SSP benefits. Monthly SSP benefits were determined by dividing his quarterly paid benefits by three months.

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.

On February 5, 2018, the Department notified Petitioner that he would receive a FAP supplement for October, November, and December of 2017. Petitioner's May 21, 2018, request for a hearing was received by the Department more than 90 days from the Department's notice of his eligibility for FAP benefits through December 31, 2017. Therefore, Petitioner's request for a hearing is untimely with respect to FAP benefits before January 1, 2018.

On May 10, 2018, the Department notified Petitioner that he was eligible for a \$192 monthly allotment of FAP benefits as of February 1, 2018, and that he would receive a FAP supplement for January of 2018, raising his monthly allotment for that month to \$192.

The maximum allotment of FAP benefits a group of one is \$192. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017), p 1.

Petitioner receives SSI and SSP benefits as a group of one and he is considered a Senior/Disabled/Veteran FAP benefits recipient. Since Petitioner's countable shelter expenses exceed his gross monthly income, Petitioner is entitled to the maximum allotment of FAP benefits available for a group of one and a more thorough review of the Department's determination of his monthly allotment is therefore not necessary.

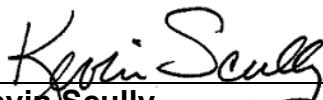
Petitioner argued that the Department told him that he was eligible for less FAP benefits than he was actually receiving. There is no right to a hearing protesting what a Department employee may have told Petitioner, and the record evidence supports a finding that the Department properly determined Petitioner's monthly allotment of FAP benefits as of January 1, 2018.

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 Petitioner's eligibility for Food Assistance Program (FAP) benefits as of January 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI 48911

Ingham County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]