



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: August 8, 2018
MAHS Docket No.: 18-006028
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. On July 18, 2018, the hearing was adjourned. After due notice, an in-person hearing was held on August 2, 2018, from Lansing, Michigan. Petitioner represented herself and [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by Shanna Ward.

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. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a group of one, when the Department received her Redetermination (DHS-1010) form on April 5, 2018. Exhibit A, pp 4-11.
2. Petitioner is disabled.
3. Petitioner receives monthly social security disability benefits in the gross monthly amount of \$831. Exhibit A, pp 23-25.
4. Petitioner is responsible for monthly housing expenses of \$450, which includes expenses for heating/cooling, electric, water, and trash removal, which was reported to the Department on February 14, 2018. Exhibit A, pp 26-27.

5. Petitioner provided verification of out of pocket medical expenses of \$23 for Medicare Part D Premiums (an ongoing expense), \$95.85 for prescription costs incurred on November 6, 2017, \$180.40 for prescription costs incurred on February 9, 2018, \$48 for service animal expenses incurred on November 6, 2017, and \$50 for service animal expenses incurred on February 15, 2018. Exhibit A, p 18 and 32-35.
6. On April 3, 2018, the Department notified Petitioner that her monthly allotment would be reduced from the maximum allotment available of \$192 to \$34 effective May 1, 2018. Exhibit A, pp 12-15.
7. On April 26, 2018, Petitioner provided verification of out of pocket medical expenses of \$23 for Medicare Part D Premiums (an ongoing expenses) and \$89.95 for vision services incurred on April 13, 2018. Exhibit A, p 45.
8. On May 7, 2018, the Department notified Petitioner that she was eligible for a \$69 monthly allotment of Food Assistance Program (FAP) benefits effective June 1, 2018. Exhibit A, pp 38-41.
9. On June 4, 2018, the Department received Petitioner's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 2.
10. On June 19, 2018, the Department notified Petitioner that she was eligible for a \$96 monthly allotment of FAP benefits effective July 1, 2018, and \$34 effective August 1, 2018. Exhibit A, pp 46-49.

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.

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A FAP group is not required to but may voluntarily report changes during the benefit period. The Department will process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

For all Food Assistance Program (FAP) groups that received the heat and utility standard on or before February 7, 2014, the heat and utility standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the heat and utility standard beyond the expiration of the five month period, the Food Assistance Program (FAP) group must meet the requirements of the mandatory heat and utility standard section. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 15.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner is an ongoing FAP recipient as a group of one and is considered an SDV benefit group.

Petitioner received social security benefits in March of 2018 in the gross monthly amount of \$831. Petitioner's verified out of pocket medical expenses did not exceed \$35, therefore she did not receive a medical deduction. Petitioner's adjusted gross income of \$671 was determined by reducing her total monthly income by the \$160 standard deduction.

Petitioner's excess shelter deduction of \$652 was determined by adding her \$450 housing expense to the \$537 standard heat and utility deduction, then reducing that amount by 50% of her adjusted gross income. Petitioner is entitled to such a large shelter deduction only as a disabled FAP recipient.

Petitioner's net income for March of 2018 was \$19, and was determined by reducing her adjusted gross income by the excess shelter deduction. A group of one with a net income of \$1,005 is entitled to a \$186 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2017), p 1.

Petitioner received social security benefits in April of 2018 in the gross monthly amount of \$831. As an SDV FAP recipient, Petitioner was entitled to a \$362 deduction for medical expenses, which was determined by reducing the total of her verified medical

expenses by \$35 as directed by BEM 556. Petitioner's adjusted gross income of \$309 was determined by reducing her total monthly income by her medical deduction and the \$160 standard deduction.

For April of 2018, the standard heat and utility was removed from Petitioner's budget because she is no longer responsible for heating and cooling expenses. Petitioner did not dispute that she did not receive a home heating credit in the previous 12 months. Petitioner's excess shelter deduction of \$328 was determined by reducing the sum of her \$450 housing expense and the \$32 standard telephone expenses deduction by 50% of her adjusted gross income.

Petitioner's net income for April of 2018 was \$0, because her excess shelter deduction was greater than her adjusted gross income. Petitioner received a \$192 monthly allotment of FAP benefits in April, which is the maximum amount available for a group of one. RFT 260, p 1.

Petitioner received social security benefits in May of 2018 in the gross monthly amount of \$831. Petitioner did not provide verification of any additional out of pocket medical expenses that had not already been applied towards her FAP budget. Petitioner's adjusted gross income of \$671 was determined by reducing her monthly income by the \$160 standard deduction.

Petitioner's allowable shelter expenses in May of 2018 were the same as her expenses in April. Petitioner was entitled to a \$147 shelter deduction, which was determined by reducing her allowable shelter deductions by 50% of her adjusted gross income.

Petitioner's net income of \$524 for May of 2018 was determined by reducing her adjusted gross income by her excess shelter deduction. A group of one with a net income of \$524 is entitled to a \$34 monthly allotment of FAP benefits. RFT 260, p 8.

Petitioner received social security benefits in June of 2018 in the gross monthly amount of \$831. Petitioner provided a receipt of April 26, 2018, which was too later to be applied towards her May benefits, in the amount of \$89.95 for vision services. When combined with her ongoing Medicare Part D Premium and reduced by \$35 as directed by BEM 556, Petitioner was entitled to a \$78 medical deduction. Reducing Petitioner's total monthly income by the medical deduction and the \$160 standard deduction left her with a \$593 adjusted gross income.

Petitioner was entitled to the same shelter deductions as in May of 2018. Petitioner's total excess shelter deduction of \$186 was determined by reducing her shelter expenses by 50% of her adjusted gross income.

Petitioner's net income of \$407 for June of 2018 was determined by reducing her adjusted gross income by her excess shelter deduction. A group of one with a net income of \$407 is entitled to a \$69 monthly allotment of FAP benefits. RFT 260, p 6.

Petitioner provided the Department with verification of medical expenses incurred in May and June, which were applied towards her eligibility for FAP benefits in June of 2018. The Department redetermined Petitioner's eligibility for FAP benefits and notified her of the results on June 19, 2018. This notice was made after Petitioner's request for a hearing was received by the Department and therefore this subsequent action cannot be considered in this hearing decision.

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.

Petitioner testified that she was protesting the Department's determination of her eligibility for FAP benefits from January 1, 2018, and ongoing. Petitioner's request for a hearing was received by the Department on June 4, 2018. Petitioner is entitled to a determination of whether the Department properly determined her ongoing level of FAP benefits in the previous 90 days. Therefore, Petitioner's request for a hearing is not timely with respect to the Department's determination of FAP eligibility before March of 2018.

Petitioner testified that she received a home heating credit approximately two years ago and did not dispute that she did not receive such a credit in the previous 12 months.

Petitioner argued that her automobile expenses should be deducted as medical expenses.

Petitioner is entitled to a deduction for allowable expenses per mile for the cost of transportation to secure medical treatment or services. BEM 554, p 11.

However, these one-time expenses must be verified each time. Petitioner testified that she had verification of a medical need for transportation, but failed to establish that she had provided verification of such out of pocket transportation expenses to the Department.

Petitioner testified that as an SDV FAP recipient, her monthly allotment of FAP benefits should not fluctuate as much as they have been.

However, Petitioner's eligibility for FAP benefits is determined by her countable income and expenses. As Petitioner reports changes to her circumstances, including the reporting of medical expenses incurred, the Department is required to redetermine her eligibility for FAP benefits based on her current circumstances as the Department become of them.

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 from March 1, 2018, through May 31, 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], MI [REDACTED]