



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: August 3, 2018
MAHS Docket No.: 18-006443
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 July 26, 2018, from Lansing, Michigan. Petitioner represented herself. 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 four when the Department received her Redetermination (DHS-1010) form on March 29, 2018. Exhibit A, pp 5-12.
2. On May 7, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) with a due date of May 17, 2018. Exhibit A, pp 13-14.
3. On May 17, 2018, the Department received Petitioner's Self-Employment Income and Expenses Statement (DHS-431) where she reported total proceeds for February of 2018, of \$28,930.04. Exhibit A, pp 44-45.
4. On May 17, 2018, the Department received copies of receipts for Petitioner's self-employment expenses. Exhibit A, pp 49-64.

5. The receipts Petitioner provided on May 17, 2018, show countable expenses totaling \$10,595.23. Exhibit A, pp 49-64.
6. The Department excluded reported expense receipts for finance charge and payments to the IRS. Exhibit A, pp 53-54, and 58.
7. On June 15, 2018, the Department notified Petitioner that she was no longer eligible for Food Assistance Program (FAP) benefits effective May 1, 2018. Exhibit A, pp 15-19.
8. On June 21, 2018, the Department received Petitioner's request for a hearing. Exhibit A, pp 2-3.

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).

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. The amount of self-employment income before any deductions is called total proceeds. Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 502 (July 1, 2017), pp 1-9.

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

BEM 502, pp 3-4.

Expenses associated with self-employment that are not allowed include:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

BEM 502, pp 4.

Self-Employment income and expenses must be verified at Redetermination or renewal of the benefit period. BEM 502, pp 6-7.

Petitioner was an ongoing FAP recipient when the Department performed a routine redetermination of her eligibility for ongoing FAP benefits. On May 17, 2018, the Department received verification documents for three months of reported self-employment income and expenses.

Petitioner reported total proceeds for February of 2018 of \$28,930.04. Petitioner provided receipts of countable self-employment expenses totaling \$10,595.23. The

Department excluded expenses of \$2,988.06 and \$175 as not meeting the requirements of BEM 502.

The monthly gross income limit for a group of four is \$2,665. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2017), p 1.

Petitioner argued that the Department failed to count all of her self-employment business expenses that was reported on her Self-Employment Income and Expenses Statement (DHS-431).

Department policy in BEM 500 requires that all income be considered when determining eligibility for benefits, even if that amount represents more than the person actually receives. Department policy in BEM 502, requires that all self-employment expenses be verified by actual receipts to be countable against income.


The hearing record supports a finding that the Department accurately determined Petitioner's gross monthly income, which makes her household of four ineligible for FAP benefits.

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 closed Petitioner's Food Assistance Program (FAP) benefits based on self-employment income.

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]
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[REDACTED], MI [REDACTED]