



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: November 30, 2018
MAHS Docket No.: 18-010923
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 November 21, 2018, from Lansing, Michigan. Petitioner represented herself and her son [REDACTED] testified on her behalf. The Department of Health and Human Services was represented by John Brady and Crystal Cusic-Spencer.

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. On [REDACTED] 2014, Petitioner registered a quit claim deed placing title in her home to herself and her son. Exhibit A, pp 37-38.
2. On September 4, 2018, the Department received Petitioner's Renew Benefits form. Exhibit A, pp 26-28.
3. On September 19, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of housing expenses with an October 1, 2018, due date. Exhibit A, pp 17-19.
4. Petitioner provided the Department with a copy of a homeowner's insurance policy application that did not list the insurance premium amount. Exhibit A, p 35.

5. Petitioner provided the Department with a copy of a written statement from Petitioner's son claiming that Petitioner pays a mortgage payment to him. Exhibit A, p 36.
6. On October 8, 2018, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective October 1, 2018. Exhibit A, pp 10-13.
7. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing. Exhibit A, pp 2-5.

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 must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2018), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (April 1, 2017), pp 1-10.

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 reviewed Petitioner's eligibility for ongoing FAP benefits when on September 4, 2018, it received her Renew Benefits form. On September 19, 2018, the Department requested Petitioner provide verification of her housing expenses by October 1, 2018.

Petitioner provided the Department with a copy of a homeowner's insurance policy application that did not list the insurance premium amount and a written statement from her son claiming that she pays a mortgage payment to her son.

The Department had issued a notice to Petitioner that her FAP benefits would close, but then reinstated the FAP benefits with a \$[REDACTED] monthly allotment after reducing the amount of her housing expenses obligation in the FAP budget.

Housing expenses are allowable deductions for the purposes of determining eligibility for FAP benefits as directed by BEM 554. In order for housing expenses to be countable, they must be verified. In this case, Petitioner claimed to have an obligation to pay homeowners insurance but failed to verify the amount of the insurance premium. Petitioner also claimed to have a mortgage expenses, but failed to offer sufficient verification of that mortgage expense.

Petitioner's son testified under oath that he paid off her mortgage and now has a personal mortgage agreement with his mother, obligating her to pay him \$[REDACTED] per month.

The record evidence supports a finding that Petitioner registered a quit claim deed transferring her home to herself and her son. A transfer of assets means giving, selling or trading assets to an individual/someone other than an asset group member, including a change from sole to joint ownership. Department of Health and Human Services Bridges Eligibility Manual (BEM) 406 (October 1, 2016), p 1.

No evidence of a mortgage agreement was entered into the hearing record, and no evidence that a mortgage agreement was registered with the transfer of title in the home. An obligation to pay housing expenses is a countable expense, but a personal loan as repayment for paying off the original mortgage would not be countable since it is not an actual housing expense. Since this could not be verified from the statement submitted as verification of housing expenses, the Department was acting in accordance with BEM 554 when it removed the housing expenses from Petitioner's FAP budget as an unverified housing expense.

Whether the transfer of partial ownership of the home to Petitioner's son was a divestment under BEM 406 is not relevant to the issue of whether the Department properly determined the amount of Petitioner's monthly allotment of FAP benefits.

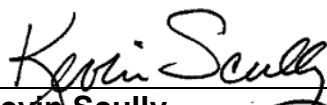
However, the Department was acting in accordance with BEM 554 when it removed Petitioner's unverified housing expenses from the budget. Petitioner has a fixed income, and this was not disputed during the hearing. Therefore, the Department established that it properly determined her eligibility for FAP 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 determined the amount of Petitioner's Food Assistance Program (FAP) benefits after determining that her housing expenses had not been verified.

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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI 48071

Oakland County (District 2), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Authorized Hearing Rep.

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

Petitioner

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