



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: January 29, 2019
MAHS Docket No.: 18-012745
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, telephone hearing was held on January 23, 2019, from Lansing, Michigan. Petitioner was represented by himself, and his wife [REDACTED] testified on his behalf. The Department was represented by Brenda Drewnicki.

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 and his wife are Food Assistance Program (FAP) recipients as a group of two and they receive monthly social security benefits in the gross monthly amount of \$1,739.
2. Petitioner and his wife are eligible for Medicare and their Medicare premiums are paid by the Department through the Medicare Savings Program (MSP). Exhibit A, pp 39-42.
3. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,119. Exhibit A, p 19.
4. Petitioner receives a monthly pension in the gross monthly amount of \$114.12. Exhibit A, pp 20 and 22.

5. On May 18, 2018, the Department received verification that Petitioner has an obligation to pay housing expenses in the monthly amount of \$904. Exhibit A, p 23.
6. Petitioner's wife receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$506. Exhibit A, p 21.
7. On October 18, 2018, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$131 monthly allotment effective November 1, 2018. Exhibit A, pp 3-4.
8. On October 27, 2018, the Department notified Petitioner that he was eligible for Food Assistance Program (FAP) benefits with a \$75 monthly allotment effective December 1, 2016. Exhibit A, pp 5-6.
9. On November 27, 2018, the Department received Petitioner's request for a hearing. Exhibit A, p 2.
10. On November 27, 2018, the Department received verification that his housing expenses had increased. Exhibit A, p 7.

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).

Petitioner and his wife are a FAP benefit group of two and they receive income in the gross monthly amount of \$1,119, which comes from the social security benefits and a monthly pension payment. On October 18, 2018, the Department notified Petitioner that he was approved for a \$131 monthly allotment of FAP benefits, which was based in part on a \$124 deduction for medical expenses. On October 27, 2018, the Department determined that there was no basis for allowing the medical expenses deduction, and Petitioner was notified that his monthly allotment of FAP benefits would be reduced to \$75 effective December 1, 2016.

The record evidence supports a finding that Petitioner and his wife do not have any ongoing out of pocket medical expenses and that they have not provided verification of any individual medical expenses that were incurred recently.

Petitioner and his wife have a monthly adjusted gross income of \$1,581, which was determined by reducing their total income by the \$158 standard deduction for a group of two.

Petitioner's household is entitled to a \$719 excess shelter deduction due to their disabilities, otherwise they would be limited to the shelter maximum of \$552. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2018), p 1. Before November 27, 2018, the Department had not yet received their increased housing expenses and was using the previously verified amount. The shelter deduction was determined by adding the \$904 housing expenses to the \$543 standard heat and utility deduction, then subtracting 50% of the adjusted gross income.

Petitioner's net income of \$924 was determined by reducing the adjusted gross income by the excess shelter deduction. A group of two with a net income of \$924 is entitled to a \$75 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 13.

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 December 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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

Tolisha Bates
21885 Dunham Road
Clinton Twp., MI 48036

Macomb County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED], MI [REDACTED]