



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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

Date Mailed: February 19, 2019
MAHS Docket No.: 19-000358
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 February 13, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Sha're Clayton and Cathy Burr.

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. Department records indicate that on or around March 2, 2018, the Department notified Petitioner that she was disqualified from the Food Assistance Program (FAP) for 12 months. Exhibit A, p 36.
2. Petitioner requested a hearing protesting her disqualification from the Food Assistance Program (FAP) on May 10, 2018, but her hearing request was dismissed on June 22, 2018, when she failed to appear at the hearing. MAHS Docket No 18-004894.
3. Petitioner receives monthly earned income from employment in the gross monthly amount of [REDACTED]. Exhibit A, p 17.

4. Petitioner's son receives monthly Supplemental Security Income (SSI) in the gross monthly amount of [REDACTED]. Exhibit A, pp 18-19.
5. Petitioner is responsible for a monthly housing expenses of \$160 and is responsible for utility expenses separately from housing. Exhibit A, p 9.
6. On December 10, 2018, the Department approved Petitioner for Food Assistance Program (FAP) benefits as a group of one. Exhibit A, pp 8-11.
7. On January 9, 2019, the Department received Petitioner's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits. 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), pp 1-13.

The Department continues to budget all earned and unearned income of a person disqualified from FAP for non-cooperation with employment related activities. Department of Health and Human Services Bridges Eligibility Manual (BEM) 550 (January 1, 2017), p 3.

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 or around March 2, 2018, the Department notified Petitioner that she was disqualified from FAP for 12 months beginning April 1, 2018. Petitioner requested a hearing protesting the disqualification but then failed to attend the hearing. Petitioner's January 9, 2019, hearing request is untimely with respect to her 12-months disqualification from FAP.

Petitioner resides with her son and her mother, but she does not purchase or prepare food with her mother. Petitioner and her son receive an adjusted gross income of [REDACTED], which was determined by adding the earned income from employment in the gross monthly amount of [REDACTED] to the SSI benefits in the gross monthly amount of [REDACTED], then subtracting the 20% earned income deduction.

Petitioner is entitled to a [REDACTED] deduction for shelter expenses, which was determined by adding her \$160 monthly housing expenses to the \$543 standard heat and utility deduction, then subtracting 50% of her adjusted gross income.

Petitioner's net income of [REDACTED] was determined by subtracting the shelter deduction from the adjusted gross income. Petitioner received FAP benefits as a group of one because she is disqualified from FAP and her son is the remaining eligible member. A group of one with a net income of [REDACTED] is entitled to a \$15 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 12.

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/dh



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

Sarina Baber
22 Center Street
Ypsilanti, MI 48198

Washtenaw County, DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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