



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 12, 2019
MAHS Docket No.: 19-002119
Agency No.: ██████████
Petitioner: ██████████

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. The hearing was consolidated with another hearing recorded a Michigan Administrative Hearing System (MAHS) Docket Number 19-001581, without objection. After due notice, telephone hearing was held on April 3, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Yvette Bishop-Turnbull, Candace Baker, Vanus Hughey, and Shaunte Challbell.

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner is not eligible 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 two. Exhibit A, p 35.
2. On January 29, 2019, the Department received Petitioner's Redetermination (DHS-1010) where she reported to be employed and expected to receive earned income in the gross bi-weekly amount of ██████████. Exhibit A, pp 21-29.
3. The Department determined that Petitioner was not eligible for Food Assistance Program (FAP) benefits as of March 1, 2019. Exhibit A, p 35.

4. On February 14, 2019, the Department received Petitioner's request for a hearing. Exhibit A, pp 3-12.

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 gross monthly income limit for a group of two is \$1,784. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

Petitioner was an ongoing FAP recipient as a group of two when the Department received her Redetermination (DHS-1010) form on January 29, 2019. Petitioner reported to the Department that she expected to receive earned income in the gross bi-weekly amount of [REDACTED]. Based on this information, Petitioner's countable gross monthly income exceeds the limit for a group of two regardless of their obligation to pay monthly expenses.

Petitioner requested that her FAP case remain open to avoid the burden of having to reapply should her current circumstances change.

However, Department policy does not allow for clients that are ineligible for benefits to have their cases remain open. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

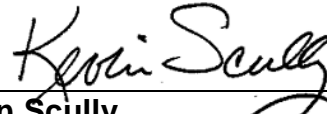
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits based on her countable income.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

Petitioner withdrew her requests for a hearing with respect to Medical Assistance (MA), and Child Development and Care (CDC) benefits and her requests for a hearing are dismissed with respect to those programs only.

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

L. Brewer-Walraven via electronic mail

Petitioner

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