



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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

Date Mailed: July 9, 2019
MOAHR Docket No.: 19-006020
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 3, 2019, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Joshua Young and Tamika Harris.

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 receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 9-10.
2. Petitioner receives monthly earned income from other employment in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 11-16.
3. Petitioner receives monthly child support payments in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 18-20.
4. Petitioner is responsible for a \$153 dependent care expense. Exhibit A, p 21.
5. Department records indicate that on May 6, 2019, Petitioner reported that her obligation to pay rent and increased from \$700 to \$740. Exhibit A, pp 22-24.

6. On May 8, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of dependent care expenses and housing expenses by May 20, 2019. Exhibit A, pp 25-26.
7. On June 7, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits as of July 1, 2019. Exhibit A, pp 5-8.
8. On May 31, 2019, the Department received Petitioner's verbal request for a hearing protesting the closure of her Food Assistance Program (FAP) benefits. Exhibit A, pp 2-4.

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).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

The Department initiated a routine review of Petitioner's eligibility for ongoing FAP benefits after a routine eligibility interview conducted on May 6, 2019. Petitioner

receives earned income from two jobs in the gross monthly amount of \$ [REDACTED]. This amount was determined from the average of her regular pay, excluding overtime, and converting that amount to a monthly figure by multiplying by the conversion factor. Petitioner received child support payments in the monthly amount of \$ [REDACTED] which was determined by averaging the uneven child payments she receives into a monthly average. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her total gross monthly income by the \$158 standard deduction and her \$153 dependent care expense. Petitioner is entitled to a \$186 shelter deduction, which was determined by reducing the sum of her \$700 rent expense and the \$543 heat and utility deduction by 50% of her adjusted gross income. Petitioner's monthly net income of \$ [REDACTED] was determined by subtracting the shelter deduction from her adjusted gross income. A group of three with a net income of \$ [REDACTED] is not eligible for any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 27.

Petitioner argued that she had not received any child support payments recently and that she does not expect to receive any additional child support.

The evidence supports a finding that the child support payments Petitioner has received in the past is irregular. Petitioner received no child support in May and June, but unusually large payments in April. The amount Petitioner received in April is much higher than the average payment she has received over the past year, and the Department has established that the amount it applied towards her eligibility is the best estimate of her prospective income.

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.

Petitioner testified that her monthly rent increased, but failed to establish her provided verification of the increased expenses by May 20, 2019. Removing this expense from the eligibility determination would have been justified by BEM 554, but the Department applied the previously verified housing expense. Further, the \$40 increase of rent does not make Petitioner eligible for FAP based on her current income.

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 that Petitioner is not eligible for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

/DHHS

Renee Swiercz
51111 Woodward Ave 5th Floor
Pontiac, MI 48342

Oakland County (District 4), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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