



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: August 23, 2019
MOAHR Docket No.: 19-007765
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 August 21, 2019, from Lansing, Michigan. Petitioner was represented by her sister [REDACTED] and Petitioner testified on her own behalf. The Department of Health and Human Services was represented by Haysem Hosmy.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's 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. On July 22, 2019, the Department received a Shelter Verification (DHS-3688) showing that Petitioner is responsible for rent in the monthly amount of \$868, and that heating/cooling (including room air condition) and electric is included in that amount. Exhibit 2.
2. Petitioner's sister receives monthly earned income in the gross monthly amount of \$ [REDACTED] Exhibit 4.
3. Petitioner and her sister received unearned income in the gross monthly amount of \$ [REDACTED] Exhibit 4.
4. On July 12, 2019, the Department notified Petitioner that she was not eligible for Food Assistance Program (FAP) benefits effective August 1, 2019. Exhibit 5.

5. On July 22, 2019, the Department received Petitioner's request for a hearing protesting the closure of her Food Assistance Program (FAP) and Medicare Savings Program (MSP) benefits. Exhibit 1.

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).

The Department will consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. A FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (April 1, 2019), pp 8 – 9.

Petitioner and her sister are a FAP group of two. Together they receive a total gross monthly income of \$ [REDACTED] which was not disputed during the hearing. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing total income by the \$108 standard deduction and a 20% earned income deduction. Previously, some one-time medical expenses were applied to Petitioner's gross income as ongoing expenses due to Department error. No evidence was presented on the record that Petitioner reported any current medical expenses.

Petitioner has a \$868 monthly rent expenses, which includes heating, cooling, and

electricity. The Department gave Petitioner a standard credit for water expenses and telephone expenses.

However, Petitioner's total allowable shelter expenses are less than 50% of her adjusted gross income. Therefore, Petitioner is not entitled to a shelter deduction.

With no allowable shelter deduction, Petitioner's net income is the same as her adjusted gross income. A group of two with an adjusted gross income of \$ [REDACTED] is not eligible for any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019).

Petitioner testified that she is obligated to pay for heating and electric expenses if they go over a certain amount.

However, Petitioner's testimony is not consistent with the Shelter Verification form signed by Petitioner's landlord and received by the Department on July 22, 2019. The Department is prohibited from crediting FAP recipients with unverified shelter expenses.

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. BEM 554, p 14.

Petitioner testified that as a result of the closure of FAP benefits, she will no longer qualify for Home Help benefits.

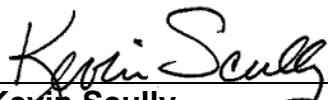
The closure of Home Help benefits cannot be addressed by Petitioner's July 22, 2019, hearing request, and must be protested through a separate request for a hearing as directed by the written notice for that program.

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 effective August 1, 2019, based on the group's net monthly income.

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

Dawn Tromontine
41227 Mound Rd.
Sterling Heights, MI 48314

Macomb County (District 36), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED], MI [REDACTED]

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]