



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 25, 2019
MOAHR Docket No.: 19-011629
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 November 21, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Keeona Remmer.

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. On [REDACTED], 2019, the Department received Petitioner's application for State Disability Assistance (SDA) and Food Assistance Program (FAP) benefits.
2. Petitioner's son receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$771 and State Supplemental Security Income (SSP) in the gross monthly amount of \$14.
3. Petitioner receives monthly earned income for employment as a home help provider of \$ [REDACTED] on September 19, 2019, \$ [REDACTED] on September 5, 2019, \$ [REDACTED] on June 6, 2019, \$ [REDACTED] on May 23, 2019. Exhibit A, p 18.
4. On October 15, 2019, the Department notified Petitioner that she was not eligible for State Disability Assistance (SDA) benefits and eligible for a \$166 monthly

allotment of Food Assistance Program (FAP) benefits and a prorated allotment for October of 2019. Exhibit A, pp 7-14.

5. On October 21, 2019, the Department received Petitioner's request for a hearing protesting the amount of her Food Assistance Program (FAP) allotment. Exhibit A, pp 3-4.

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).

Food Assistance Program (FAP)

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).

As a general practice wages are not income until actually paid and should not be countable until anticipated or received, except income received in one month that is intended to cover several months is considered available in each of the months covered by the income; see BEM 505. Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (October 1, 2019), p 6.

When income is received in one month but is intended to cover several months (such as, contractual income, farm income, etc.), establish a monthly average amount if the benefit month is one of the months covered by the income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), p 7.

Petitioner applied for FAP and SDA benefits on October 11, 2019. The Department's representative testified that Petitioner's son receives SSI and SSP in the gross monthly amount of \$785, and Petitioner did not dispute that testimony.

The Department applied earned income in the gross monthly amount of \$[REDACTED], which was determined by adding the two payments Petitioner received in September of 2019. Petitioner receives earned income as a home help provider and the Department's records show no earned income received in July and August of 2019. A payment of \$[REDACTED] received is exactly twice the amount she received on September 19, 2019. The evidence supports a finding that the September 5, 2019, payment was intended to cover several months for services provided in July and August of 2019.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for the Food Assistance Program (FAP) as of October 8, 2019.

State Disability Assistance (SDA)

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

SDA is a cash program for individuals who are not eligible for Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. An SDA eligibility determination group consists of either a single adult or adult and spouse living together. Department of Health and Human Services Bridges Eligibility Manual (BEM) 214 (April 1, 2019), p 1. The payment standard is the maximum benefit amount that can be received by the certified group. Department of Health and Human Services Bridges Eligibility Manual (BEM) 515 (October 1, 2018), p 1. The payment standard for an unmarried individual is \$200. Department of Health and Human Services Reference Table Manual (RFT) 225 (December 1, 2013), p 1.

Petitioner and her son each received countable income exceeding the \$200 payment standard in September of 2019. Although they meet the non-financial criteria for SDA benefits, neither of them are eligible to receive any SDA benefits based on their 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 did act in accordance with Department policy when it determined Petitioner's eligibility for State Disability Assistance (SDA) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with respect to the Food Assistance Program (FAP). The Department's decision is **AFFIRMED** with respect to the State Disability Assistance (SDA) program.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of Petitioner's eligibility for the Food Assistance Program (FAP) as of [REDACTED], 2019.
2. Provide Petitioner with written notice describing the Department's revised eligibility determination.
3. Issue Petitioner any retroactive benefits she may be eligible to receive, if any.

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

Denise McCoggle
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

L. Karadsheh via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]