



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: February 5, 2020
MOAHR Docket No.: 19-013574
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. After due notice, a telephone hearing was held on January 29, 2020, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Doris Reynolds.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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. On ██████████ 2019, the Department received Petitioner's application for State Emergency Relief (SER) benefits. Exhibit A, pp 5-12.
2. Petitioner's daughter receives monthly earned income in the gross monthly amount of \$██████████ Exhibit A, pp 13-15.
3. There are three children that receive social security benefits in the gross monthly amount of \$██████████
4. Petitioner is responsible for housing expenses in the monthly amount of \$550, and she is responsible for utility expenses separately from housing.

5. On December 7, 2019, the Department notified Petitioner that she was eligible for a \$56 monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, pp 21-25.
6. On December 20, 2019, the Department received Petitioner's request for a hearing protesting the amount of her monthly Food Assistance Program (FAP) allotment. 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.

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).

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. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), p 1.

All earned income from employment that is received by FAP group members that are more than 18 years of age is countable towards the group's eligibility for benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (January 1, 2020), p 2.

The Department initiated a determination of Petitioner's eligibility for ongoing FAP benefits after receiving an application for State Emergency Relief (SER) benefits on October 24, 2019. Petitioner and her children receive income totaling \$[REDACTED] which was determined from the total of one daughter's earned income of \$[REDACTED] per month, and social security benefits totaling \$[REDACTED]. Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing earned income by the 20% earned income deduction and the \$234 standard deduction for a group of six.

Petitioner is responsible for housing expenses of \$550 per month, and she is entitled to the \$518 heat and utility deduction because she is responsible for utility expenses separately from her housing expenses. Since Petitioner's total shelter expenses are less than 50% of her adjusted gross income, she is not entitled to any deduction from income for shelter expenses.

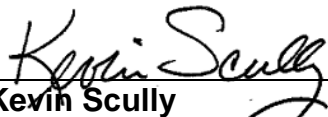
Therefore, Petitioner's net monthly income is the same as her adjusted gross income. A group of six with a net monthly income of \$[REDACTED] is entitled to a \$56 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 40.

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 the Food Assistance Program (FAP).

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

Deborah Little
5131 Grand River Ave.
Detroit, MI 48208

Wayne County (District 49), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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