



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: January 12, 2018  
MAHS Docket No.: 17-015579  
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, telephone hearing was held on January 3, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Mindy Weaver, Eligibility Specialist, and Sue Fassett, Assistance Payments Supervisor.

**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 September 14, 2017, the Department notified Petitioner that she was eligible for a \$16 monthly allotment of Food Assistance Program (FAP) benefits effective November 1, 2017. Exhibit A, pp 1-4.
2. On October 31, 2017, the Department notified Petitioner that she was eligible for a \$15 monthly allotment of Food Assistance Program (FAP) benefits effective December 1, 2017. Exhibit A, pp 5-8.
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,237.
4. Petitioner has a monthly housing expense obligation of \$173 and received a home heating credit greater than \$20.
5. Petitioner provided verification of medical expenses totaling \$201.

6. On November 21, 2017, the Department received Petitioner's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits.

### **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 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. The Department will process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), pp 8 – 9.

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. Budget it for one month.
2. Average it over the remainder of the first 12 months of the benefit period.
3. Average it over the remainder of the 24-month benefit period.

BEM 554.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

Petitioner was an ongoing FAP recipient in September of 2017, when the Department redetermined her eligibility for ongoing benefits and discovered that she was receiving credit for medical expenses that were not ongoing expenses.

On October 31, 2017, the Department redetermined Petitioner's eligibility for FAP benefits. Petitioner received RSDI benefits in the gross monthly amount of \$1,237, an amount not disputed during the hearing. Petitioner provided verification of ongoing medical expenses totaling \$201, which entitles her to a \$166 deduction after reducing verified expenses by \$35 as directed by BEM 556. Petitioner is entitled to a shelter deduction totaling \$255, which was determined by adding her \$173 monthly shelter expense to the \$537 standard heat and utility deduction, then subtracting 50% of her adjusted gross income.

Petitioner's net income of \$656 was determined by subtracting her shelter deduction from her adjusted gross income. A FAP group of one is entitled to a \$15 monthly allotment of FAP benefits.

Petitioner provided documentation from her treating physician showing that due to her mental impairments that fluctuations of her monthly FAP allotment are a hardship to Petitioner.

However, Petitioner has no entitlement to FAP benefits that she is not eligible to receive. Petitioner must provide verification of medical expenses each month for countable expenses that are not verified as ongoing. Whether the Department mistakenly classified certain expense improperly as ongoing in the past is not relevant to her current benefits. Petitioner failed to identify any current medical expenses that the Department is not applying towards her eligibility for FAP benefits.

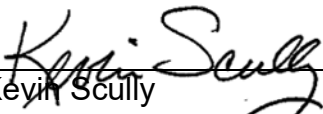
The fact that fluctuations in Petitioner's monthly allotment of FAP benefits is not an issue that can be addressed by this hearing as long as the Department is acting in accordance with policy. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. 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 determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective December 1, 2017.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/nr

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, 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) 335-6088; 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**

Laura Bensinger  
1050 Independence Blvd  
Charlotte, MI  
48813

Eaton County DHHS- via electronic mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

**Petitioner**

