



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 31, 2018
MAHS Docket No.: 17-016272
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 24, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Lakeitia Cokleym, and Raychael May.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's monthly allotment of 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a group of three.
2. Petitioner receives monthly earned income from employment in the gross monthly amount of \$1,615.
3. Petitioner's 18-year-old daughter receives monthly earned income in the gross monthly amount of \$590.
4. Petitioner is responsible for monthly housing expenses of \$600 and she is responsible for heating costs separate from housing expenses.
5. On December 15, 2017, the Department notified Petitioner that she was approved for a \$123 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2018.
6. On December 11, 2017, the Department received Petitioner's request for a hearing.

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 (July 1, 2014), pp 7-8.

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 benefit group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

The Department counts the income of FAP group members over age 18. Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (July 1, 2017), p 2.

Petitioner was an ongoing FAP recipient as a group of three when the Department redetermined her eligibility for ongoing benefits based on paycheck stubs she had provided as verification of household income. Petitioner receives monthly earned income from employment in the gross monthly amount of \$1,615. Petitioner's daughter,

age 18, received monthly earned income in the gross monthly amount of \$590. Countable monthly income is determined by multiplying average income by the 2.15 conversion factor. Petitioner's adjusted gross income was determined by reducing her group's total gross income by the \$160 standard deduction.

Petitioner is entitled to an excess shelter deduction for shelter expenses in the monthly amount of \$335. This was determined from the total of her \$600 monthly housing expenses and the \$537 standard heat and utility deduction and then subtracting 50% of her adjusted gross income.

Petitioner's net income of \$1,269 was determined by reducing her adjusted gross income by the excess shelter deduction. A group of three with a net income of \$1,269 is entitled to a \$123 monthly allotment of FAP benefits.

Petitioner argued that her gross income is not available to her and that eligibility should be determined based on net income. Petitioner also argued that her daughter's income is not used to contribute to household expenses and therefore should not be countable.

However, Department policy requires that the gross income of all group members be counted towards the group's eligibility and this includes the gross earnings of 18-year-old children living with their parents. The Petitioner's grievance centers on dissatisfaction with the Department's current 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. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Petitioner also argued that part of the income that the Department used to determine her FAP allotment was based on holiday pay.

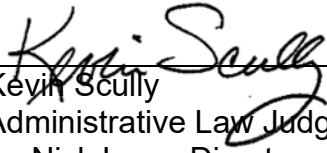
The Department may exclude income from consideration that is not likely to continue. Although holiday pay is not something that continues every week, the evidence supports a finding that this income is a regular part of Petitioner's compensation. No evidence was presented on the record that the holiday pay was a one-time payment that was not likely to continue. Therefore, this Administrative Law Judge finds that the Department properly determined that the holiday pay was countable towards Petitioner's prospective 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 Petitioner's eligibility for Food Assistance Program (FAP) benefits effective January 1, 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

Denise Ezell
3040 W Grand Blvd STE 5-450
Detroit, MI 48202

Wayne Pathways to Potential- via
electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

