



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 29, 2018
MAHS Docket No.: 17-016293
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 was represented by his father, [REDACTED]. The Department was represented by Susan Engel, Hearing Facilitator, and Abraham White, Eligibility Specialist.

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 [REDACTED], 2017, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 25-44.
2. Petitioner's father is Petitioner's authorized representative. Exhibit A, p 43.
3. Petitioner lives in the same household as his father but they each belong to separate Food Assistance Program (FAP) benefit groups.
4. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) benefits in the gross monthly amount of \$778. Exhibit A, pp 17-22.
5. Petitioner reported on his [REDACTED], 2017, application for assistance that he is responsible to pay a \$300 monthly rent expense.

6. On November 27, 2017, Petitioner's father reported during an eligibility interview that Petitioner is not responsible for a rent expense. Exhibit A, p 24.
7. On November 27, 2017, the Department notified Petitioner that he was approved for a \$75 monthly allotment of Food Assistance Program (FAP) benefits effective December 1, 2017, and a \$25 prorated allotment effective November 21, 2017. Exhibit A, pp 5-10.
8. On December 6, 2017, the Department received Petitioner's verbal request for a hearing protesting his monthly allotment of Food Assistance Program (FAP) benefits. 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.

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. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 14.

On [REDACTED], 2017, the Department received Petitioner's application for FAP benefits. Petitioner resides with his authorized representative who is also his guardian. Petitioner is disabled and receives RSDI and SSI in the gross monthly amount of \$778.

Petitioner reported on his [REDACTED], 2017, application for assistance that he is responsible to pay a \$300 monthly rent expenses to his father, who did not report the rent as income on his case. On November 27, 2017, Petitioner's father reported during an eligibility interview that Petitioner is not responsible for a rent payment. On November 27, 2017, the Department notified Petitioner that he was approved for a \$75 monthly allotment of FAP benefits effective December 1, 2017, and a \$25 prorated allotment effective November 21, 2017.

The Department did not grant Petitioner a deduction for housing expenses based on the ambiguous statements made by his father regarding monthly housing expenses. The Department is required by BEM 554 to remove unverified shelter expense from the FAP budget until they can be verified.

Petitioner's father testified that he uses his son's social security benefits to pay for their shared housing expenses but was unsure how using those benefits for that purpose might affect his son's eligibility for ongoing social security benefits.

Petitioner's eligibility for social security benefits is determined by the Social Security Administration, a federal agency, and this has no bearing on his eligibility for FAP benefits except that the social security benefits are countable. Shared expenses are not prorated but must be verified to be countable.

The Department was acting in accordance with BEM 554 when the unverified due to ambiguous statements made by Petitioner's authorized representative. Based on the information available at that time, the Department was acting in accordance with policy when it determined Petitioner's eligibility for ongoing FAP benefits with the unverified housing expense removed.

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 allotment of Food Assistance Program (FAP) benefits effective November 21, 2017, and ongoing. Petitioner's eligibility for ongoing expenses may change if additional countable expenses can be verified by the Department.

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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Saginaw County DHHS- via electronic
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BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

