



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 13, 2018
MAHS Docket No.: 18-002456
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 April 10, 2018, from Lansing, Michigan. Petitioner represented herself. The Department was represented by [REDACTED]

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. Petitioner is an ongoing Food Assistance Program (FAP) recipient.
2. Petitioner is homeless.
3. On [REDACTED], the Department received documentation showing payments made to a motel. Exhibit A, p 5.
4. On [REDACTED], the Department notified Petitioner that she was eligible for a \$ [REDACTED] monthly allotment of Food Assistance Program (FAP) benefits effective [REDACTED]. Exhibit A, pp 14-17.
5. On [REDACTED] the Department received Petitioner's request for a hearing protesting the amount of her 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.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. The expense must be a continuing one. Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. Additional expenses for optional charges, such as carports, pets, etc. are not allowed. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), p 13.

Petitioner is an ongoing FAP recipient and the Department determined that she is eligible for an ongoing allotment of FAP benefits in the monthly amount of \$ [REDACTED] which is a reduction from the amount she was previously receiving. Petitioner's gross monthly income is \$ [REDACTED] which was not disputed during the hearing. Petitioner's adjusted gross income of \$ [REDACTED] was determined by reducing her totaling income by the \$ [REDACTED] standard deduction. The Department determined that Petitioner is eligible for a \$ [REDACTED] excess shelter expenses, which was determined by reducing the heat and utility deduction by 50% of her adjusted gross income. Petitioner reported to the Department that she is homeless, and while she does pay to live in a motel occasionally, this expense does not meet the requirements of BEM 554 as a continuing housing expenses.

Petitioner's net income of \$ [REDACTED] was determined by reducing her totaling gross monthly income by the \$ [REDACTED] excess shelter deduction. A group of one with a net income of \$ [REDACTED] is entitled to a \$ [REDACTED] ongoing allotment of FAP benefits.

Based on the evidence and testimony available during the hearing, the Department properly determined Petitioner's eligibility for ongoing FAP benefits.

Petitioner testified that she is disabled and receiving social security benefits. Therefore, Petitioner is not eligible for State Disability Assistance (SDA) benefits. Petitioner argued that she was disabled before her approval for social security and that the Department failed to consider her eligibility for retroactive SDA benefits.

There is no entitlement to retroactive SDA benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 261 (April 1, 2017), pp 1-6. Further, there is no eligibility for ongoing SDA benefits once eligibility for social security benefits has been established because any state-funded SDA benefits would have to be repaid from the social security benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 272 (January 1, 2108), pp 1-6.

Petitioner failed to establish that there has been a denial of cash assistance within the 90-day period before the Department received her request for a hearing. Therefore, Petitioner failed to identify a negative action by the Department with respect to cash assistance. Therefore, Petitioner's hearing request is dismissed with respect to cash assistance.


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.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

Petitioner's hearing request is DISMISSED with respect to cash assistance only.

KS/hb



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

[REDACTED]

Petitioner

[REDACTED]