



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

Date Mailed: November 29, 2018  
MAHS Docket No.: 18-010932  
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 November 21, 2018, from Lansing, Michigan. Petitioner represented herself. The Department of Health and Human Services was represented by Elizabeth Trompen and Becky Fraser.

### **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 was an ongoing Food Assistance Program (FAP) recipient as a group of five when she reported that she was employed, and that child support and Retirement, Survivors, and Disability Insurance (RSDI) were being received in her household. Petitioner also reported having an obligation to pay child support. Exhibit A, pp 2-10.
2. Petitioner receives monthly earned income in the gross monthly amount of \$2,599. Exhibit A, pp 13-16.
3. Two members of Petitioner's household each receive monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$64. Exhibit A, pp 29-34.

4. Three members of Petitioner's household receives monthly court ordered child support in the gross monthly amount of \$422. Exhibit A, pp 21-28.
5. Petitioner is responsible for rent in the monthly amount of \$462, and she received a home heating credit exceeding \$20 in the previous 12 months. Exhibit A, p 42.
6. On September 26, 2018, the Department notified Petitioner that she was eligible for a \$42 monthly allotment of Food Assistance Program (FAP) benefits effective October 1, 2018. Exhibit A, pp 47-48.
7. On October 15, 2018, the Department received Petitioner's request for a hearing protesting the size of her monthly Food Assistance Program (FAP) allotment.

### **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 (October 1, 2017), pp 7-8.

The Department will use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p 5.

The heat and utility standard deduction covers all heat and utility costs including cooling, except actual utility expenses. FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards. Household that have received a home heating credit greater than \$20 in the preceding year are eligible for the heat and utility standard deduction. Department of Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 15-18.

Petitioner is an ongoing FAP recipient as a group of five. Petitioner receives monthly earned income in the gross monthly amount of \$2,599, which was determined by multiplying the average of the gross earnings on the two bi-weekly paycheck stubs she provided the Department as verification of her income for the previous 30 days by the 2.15 conversion factor as directed by BEM 505. The Department presented substantial evidence that members of Petitioner's household receive unearned income in the gross monthly amount of \$550, which is the total of the child support and RSDI income they receive. Petitioner is also responsible for paying child support in the monthly amount of \$33.33. Child support income and expenses are determined by dividing the average of court ordered child support over a three-month period as directed by BEM 505. Petitioner's adjusted gross income of \$2,398 was determined by reducing her earned income by the 20% earned income deduction, adding the unearned income received by the household, and subtracting Petitioner's child support obligation.

Petitioner would be entitled to an excess deduction for shelter expenses, but because the total of her obligation to pay rent and the heat and utility standard deduction of \$543 is less than 50% of her adjusted gross income, Petitioner is not entitled to an excess shelter deduction.

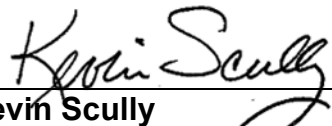
Therefore, Petitioner's net income is the same as her adjusted gross income. A group of five with a net income of \$2,397 is entitled to a \$42 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 33.

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) effective October 1, 2018.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/hb

  
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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) 763-0155; 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**

Kimberly Kornoelje  
121 Franklin SE  
Grand Rapids, MI 49507

Kent County, DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

**Petitioner**

[REDACTED]