



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED] MI [REDACTED]

Date Mailed: March 7, 2019
MAHS Docket No.: 18-014068
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 February 28, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Pamela Bruce.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's 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 December 3, 2018, the Department received Petitioner's Redetermination (DHS-1010) form where he reported that his monthly expenses had not changed. Exhibit A, pp 9-16.
2. Petitioner received a \$174 monthly allotment of Food Assistance Program (FAP) benefits in December of 2019. Exhibit A, p 25.
3. As of December 1, 2018, Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$766, Supplemental Security Income (SSI) in the gross monthly amount of \$4, and State Supplemental Security Income (SSP) in the gross monthly amount of \$14. Exhibit A, pp 21-23.

4. As of January 1, 2019, Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$788, Supplemental Security Income (SSI) in the gross monthly amount of \$3, and State Supplemental Security Income (SSP) in the gross monthly amount of \$14. Exhibit A, pp 21-23.
5. Petitioner has a monthly \$86.50 child support expense.
6. On December 8, 2018, the Department notified Petitioner that he was eligible for a \$168 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2019. Exhibit A, pp 5-8.
7. On December 13, 2018, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he receives. 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.

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).

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.

Petitioner was an ongoing FAP recipient in December of 2018 as a group of one. Respondent received a gross monthly income of \$784, which is the total of his RSDI, SSI, and SSP benefits. Monthly SSP benefits are determined by dividing his benefit paid quarterly by three months and all gross income is countable even though it may be more than the client receives as directed by BEM 500. Petitioner's adjusted gross income of \$544 was determined by reducing his total gross monthly income by the \$154 standard deduction and his \$86.50 child support expense.

Petitioner is entitled to a \$485 shelter deduction, which was determined by adding his \$220 rent expenses to the \$537 standard heat and utility deduction, then subtracting 50% of his adjusted gross income. Since Petitioner receives the standard heat and utility deduction, he is not entitled to any additional shelter deductions.

Petitioner testified that his rent has increased but did not dispute that he failed to report or verify this increased expense to the Department.

Petitioner's net monthly income of \$59 was determined by subtracting the shelter deduction from his adjusted gross income. A group of one with a net income of \$59 is entitled to a \$174 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 1.

Effective January 1, 2019, Petitioner's Social Security benefits changed, and he now receives RSDI in the gross monthly amount of \$788, SSI in the gross monthly amount of \$3, and SSP in the gross monthly amount of \$14. The cost of living increase is not included for the purposes of determining eligibility for Medicaid, but is included in the determination of eligibility for FAP benefits. See BEM 500, p 29. Therefore, Petitioner's adjusted gross income increased to \$561 based on the changes to his income and his deductions remained the same.

Petitioner's shelter deduction changed to \$483, which was determined by adding his \$220 rent expenses to the \$543 heat and utility deduction, then subtracting 50% of his new adjusted gross income.

Petitioner's net monthly income as of January 1, 2019, is \$78, which was determined by subtracting his shelter deduction from his adjusted gross income. A group of one with a net income of \$78 is entitled to a \$168 monthly allotment of FAP benefits. RFT 260, p 2.

The Department notified Petitioner that an individual is not part of the food assistance group because he/she does not purchase and prepare food with the household. Petitioner does not dispute that there is a person living in his household that is not a member of his FAP benefits group. The information on the notice of case action is not false, but is not the true reason that Petitioner's FAP benefits decreased from prior months.

However, the Department has presented sufficient evidence to establish that it determined Petitioner's eligibility for FAP benefits based on the information that was

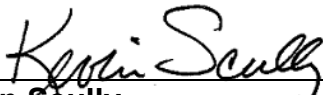
available at that time. If Petitioner provides the Department with verification of a change to his expenses, Petitioner's eligibility for FAP benefits may change in the future.

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, 2018, and January 1, 2019.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/dh



Kevin Scully
Administrative Law Judge
for Robert Gordon, 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 Myers
234 West Baraga Ave.
Marquette, MI 49855

Marquette County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
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