



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 7, 2019
MAHS Docket No.: 19-000842
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 represented himself. The Department was represented by Mary DuRussell.

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], 2018, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 67-79.
2. Petitioner receives a gross monthly income of \$834 from his social security benefits and his state supplemental benefits.
3. On December 13, 2018, the Department notified Petitioner that he was eligible for a \$81 monthly allotment of Food Assistance Program (FAP) benefits effective December 5, 2018, which was the date he submitted his application for assistance. Exhibit A, pp 80-83.
4. On January 23, 2019, the Department notified Petitioner that he was eligible for a \$176 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2019. Exhibit A, pp 87-90.

5. Petitioner has an obligation to pay housing expenses of \$450 and is responsible for heating expenses separately.
6. On January 23, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he is receiving.

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 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 consider only the medical expenses of senior/disabled/veteran (SDV) persons in the eligible group or SDV persons disqualified for certain reasons. **An FAP group is not required to but may voluntarily report changes during the benefit period.** The Department will process changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (August 1, 2017), pp 8 – 9.

The Medical Expenses amount is determined by totaling allowable monthly medical expenses (rounded to whole dollar amounts) and reducing this amount by a \$35 medical deduction. Department of Health and Human Services Bridges Eligibility Manual (BEM) 556 (July 1, 2013), p 4.

On [REDACTED], 2018, the Department received Petitioner's application for FAP benefits. Petitioner receives a gross monthly income of \$834. Petitioner's adjusted gross income of \$697 was determined by reducing his income by the \$158 standard deduction. Department policy requires that eligibility for FAP benefits be determined based on gross income, which is more than the he actually receives. In this case, Petitioner's social security benefits are being recouped by the Social Security Administration, which reduces his net income.

Petitioner is responsible for monthly housing expenses of \$450, and he has an obligation to pay for heating expenses separately from his housing. Petitioner is entitled to a \$645 shelter deduction, which was determined by adding his housing expenses to the \$543 standard heat and utility deduction, then subtracting 50% of his adjusted gross income.

Petitioner's net income of \$52 was determined by reducing his adjusted gross income by his shelter deduction. A group of one with a net income of \$52 is entitled to a \$176 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2018), p 1.

Petitioner disputed that his countable medical expenses were being applied towards his eligibility for FAP benefits, but no evidence was presented that any receipts for out of pocket medical expenses have been submitted since he applied for benefits on December 5, 2018. No evidence was presented that Petitioner is responsible for paying any medical insurance premiums. If Petitioner provides verification of medical expenses that have been incurred, his eligibility for FAP benefits in the future may change.

Petitioner testified that his physician has prescribed a specific diet for him and his circumstances require additional FAP benefits.

However, eligibility for FAP benefits is determined by countable income and expenses. As an SSI recipient, he is allowed a deduction for his actual shelter expenses, and would be limited to the \$552 maximum shelter deduction for non-disabled/senior recipients. Petitioner's need for a specific diet, even when medically required, is not considered when determining his eligibility for FAP benefits.

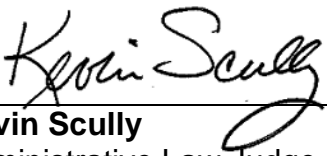
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits effective January 1, 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

Barbara Schram - 35
2145 East Huron Road
East Tawas, MI 48730

Alcona County, DHHS

BSC1 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
MI [REDACTED]