



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: March 12, 2019
MAHS Docket No.: 19-000965
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 March 6, 2019, from Lansing, Michigan. Petitioner represented himself. The Department was represented by Brandi Eiland.

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 as a group of two. Exhibit A, pp 8-27.
2. On December 18, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) with a December 28, 2018, due date. Exhibit A, pp 28-29.
3. On December 27, 2018, the Department sent Petitioner a Verification Checklist (DHS-3503) with a January 7, 2019, due date. Exhibit A, pp 30-31.
4. On January 16, 2019, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as of January 1, 2019. Exhibit A, pp 32-35.

5. On January 24, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits he is receiving. Exhibit A, pp 2-6.
6. On January 28, 2019, the Department received verification of his daughter's bank account. Exhibit A, p 36.
7. On January 29, 2019, the Department notified Petitioner that he was approved for a \$15 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2019. Exhibit A, pp 37-39.
8. Petitioner's daughter, who is under 22 years-of-age, received earned income from employment in the gross bi-weekly amounts of \$860.69 on November 23, 2018, and \$1,233.99 on December 7, 2018.

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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons reside in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same FAP group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (January 1, 2017), p 1.

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.

Petitioner applied for FAP benefits as a group of two on [REDACTED], 2018. Petitioner's application for FAP benefits was denied on December 27, 2018, when the balance of a bank account was not verified in a timely manner. On January 28, 2018, Petitioner completed the application process by providing a copy of the missing bank statement.

On January 29, 2019, the Department notified Petitioner that he was approved for FAP benefits as of January 1, 2019. Based on the evidence and testimony available during the hearing, it is not clear why Petitioner was approved for FAP benefits as of January 1, 2019, when he completed the application process 45 days after his application date. This does not appear to be in compliance with BAM 115, page 25, which instructs the Department to re-register the application using the date the client completed the process when the application process is completed between 31 and 60 days after the application date.

Further, Petitioner provided the Department with verification of his daughter's earned income in the gross bi-weekly amounts of \$860.69 received on November 23, 2018, and \$1,233.99, received on December 7, 2018. These two bi-weekly paychecks appear to represent the earned income for the most recent 30 days as of the application date when copies of the paycheck stubs were provided to the Department. If the second paycheck was found to represent income that was not likely to continue, this fact was not explained on the record during the hearing. If the two bi-weekly paychecks are used to determine the prospective monthly income as directed by BEM 505, Petitioner's FAP benefit group received a gross monthly earned income of \$2,251, which exceeds the gross monthly income limit for a group of two. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2018), p 1.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for Food Assistance Program (FAP) benefits.

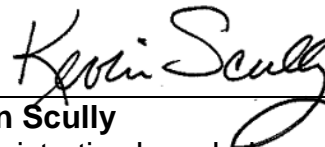
DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate a determination of the Petitioner's eligibility for the Food Assistance Program (FAP) as directed by policy as of January 1, 2019.

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

Stephanie Mietz
675 E. Cedar Ave Ste. 2
Gladwin, MI 48624

Gladwin County, DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]