



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 19, 2019
MOAHR Docket No.: 19-005055
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 June 13, 2019, from Lansing, Michigan. Petitioner was represented by her attorney Daniel Carravallah, and Petitioner testified on her own behalf. The Department was represented by Laronda McKenzie.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application 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] 2019, the Department received Petitioner's application for Food Assistance Program (FAP) benefits. Exhibit A, pp 9-16.
2. Petitioner reported on her [REDACTED], 2019, assistance application that she is disabled. Exhibit A, p 13.
3. Petitioner reported on her [REDACTED] 2019, assistance application that she is responsible for \$99 in monthly expenses for health insurance. Exhibit A, p 16.
4. Petitioner is enrolled in Medicare. Exhibit A, p 17.
5. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$1,083. Exhibit A, p 24.

6. Petitioner's daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$541. Exhibit A, p 27.
7. Petitioner's other daughter receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$945. Exhibit A, p 29.
8. Petitioner receives monthly child support income in the gross monthly amount of \$618. Exhibit A, pp 33-34.
9. Petitioner is responsible for rent in the monthly amount of \$920. Exhibit A, p 22.
10. On May 14, 2019, the Department received Petitioner's request for a hearing protesting the denial of her Food Assistance Program (FAP) application. 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.

The Department will use the average of child support payments received in the past three calendar months, unless changes are expected. Department of Health and Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 4-5.

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. A FAP group is not required to but may voluntarily report changes during the benefit period. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (April 1, 2019), 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 (April 1, 2018), p 4.

The gross monthly income of Petitioner's household is \$3,187, which was determined from the total of the monthly income received by Petitioner and her two daughters. This income exceeds the gross monthly income limit for a group of three, but this limit does not apply to Petitioner because the household is considered an SDV group. BEM 556, p 3.

As an SDV benefit group, the household is entitled to a \$170 medical deduction and a \$168 standard deduction, leaving Petitioner with a \$2,849 adjusted gross monthly income.

Petitioner is entitled to a \$29 monthly deduction for shelter expenses, which was determined by reducing the total of her \$920 monthly rent and the \$543 standard heat and utility deduction by 50% of her adjusted gross income.

Petitioner's net income of \$2,810 was determined by reducing her adjusted gross income by the \$29 monthly shelter deduction. A group of three with a net income of \$2,810 is not entitled to any FAP benefits.

Petitioner's attorney argued that the Department improperly considered a bank account that his now closed.

However, Petitioner was not denied FAP benefits based on the \$5,000 asset limit but was denied based on net income. See BEM 400. Petitioner's fixed household income was not disputed during the hearing.

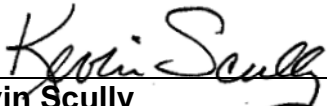
Petitioner referred to expenses for a hospitalization, which would be an allowable medical deduction. These expenses were not listed on the assistance application or reported during the eligibility interview. Petitioner has failed to establish that she is eligible for FAP benefits.

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 denied Petitioner's application for Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Dora Allen
14061 Lappin
Detroit, MI 48205

Wayne County (District 76), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

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