



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: November 26, 2019
MOAHR Docket No.: 19-011579
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 November 20, 2019, from Lansing, Michigan. Petitioner was represented by himself. The Department of Health and Human Services was represented by Gregory Folsom, Lori Aumick, and Lori Glenn.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 August 19, 2019, Petitioner was an ongoing Food Assistance Program (FAP) recipient as a household of one when the Department received his Redetermination (DHS-1010). Exhibit A, pp 4-11.
2. Petitioner reported to the Department on his August 19, 2019, Redetermination form that he receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$953, and that he is responsible for housing expenses of \$411.50 per month. Exhibit A, p 8.
3. On September 10, 2019, the Department sent Petitioner a Verification Checklist (DHS-3503) with a September 20, 2019, due date. Exhibit A, pp 12-13.

4. On September 23, 2019, the Department notified Petitioner that he was not eligible for Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 14-18.
5. On September 23, 2019, the Department received the verification documents requested on September 10, 2019. Exhibit A, pp 19-20.
6. On October 15, 2019, the Department notified Petitioner that he was eligible for a \$116 monthly allotment of Food Assistance Program (FAP) benefits as of October 1, 2019. Exhibit A, pp 21-25.
7. On October 21, 2019, the Department received Petitioner's request for a hearing protesting the level of Food Assistance Program (FAP) benefits he is eligible for. Exhibit A, pp 26-27.

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).

Petitioner was an ongoing FAP recipient as a group of one on August 19, 2019, when the Department received his Redetermination (DHS-1010) form. Petitioner reported that he receives RSDI in the gross monthly amount of \$953. Petitioner also reported being responsible for a housing expense in the monthly amount of \$411.50. It was not

disputed that Petitioner is responsible for heating expenses separately from his housing expenses.

On September 23, 2019, the Department notified Petitioner that his FAP benefits would close for failing to submit documents necessary to accurately determine his eligibility for FAP benefits.

However, Petitioner did submit the requested documents on September 23, 2019, and the Department reinstated Petitioner's FAP benefits on October 15, 2019, as directed by BAM 205.

Petitioner's eligibility for ongoing FAP benefits as a group of one was based on a gross monthly income of \$953, which consists of his social security benefits. Petitioner's adjusted gross income of \$792 was determined by reducing his gross income by the \$161 standard deduction.

Petitioner is entitled to a \$534 shelter deduction, which was determined by reducing the total of his \$411.50 housing expenses and the \$518 standard heat and utility deduction by 50% of his adjusted gross income.

Petitioner's net income of \$258 was determined by reducing his adjusted gross income by his shelter deduction. A group of one with a net income of \$258 is entitled to a \$116 monthly allotment of Food Assistance Program (FAP) benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 4.

Petitioner's countable income changed after October 15, 2019, which resulted in a change of eligibility as of November 1, 2019, but this Department action took place after his October 21, 2019, request for a hearing and will not be addressed by this hearing decision.

Petitioner argued that his monthly allotment of FAP benefits was insufficient for his needs.

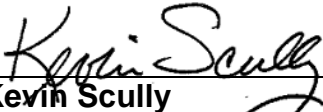
Petitioner's grievance centers on dissatisfaction with the Department's current policy. Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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) as of October 1, 2019.

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

Gregory Folsom
4809 Clio Road
Flint, MI 48504

Genesee County (Clio), DHHS

BSC2 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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