



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: December 12, 2019
MOAHR Docket No.: 19-011930
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 December 4, 2019, from Lansing, Michigan. Petitioner was represented by herself. The Department of Health and Human Services was represented by Tonya Boyd.

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 October 11, 2019, the Department initiated review of Petitioner's eligibility for ongoing Food Assistance Program (FAP) benefits as a group of two following a redetermination interview at the end of her certification period.
2. Petitioner received earned income from employment in the gross weekly amounts of \$289.50 on September 6, 2019, \$427.16 on September 13, 2019, \$324.10 on September 20, 2019, and \$372.92 on September 27, 2019. Exhibit A, p 27.
3. Petitioner receives a monthly pension in the gross monthly amount of \$344.74. Exhibit A, p 24.
4. On October 25, 2019, the Department notified Petitioner that she was eligible for a \$96 monthly allotment of Food Assistance Program (FAP) benefits as of November 1, 2019. Exhibit A, pp 7-13.

5. On November 1, 2019, the Department received Petitioner's request for a hearing protesting the amount of Food Assistance Program (FAP) benefits she is receiving. Exhibit A, pp 3-4.

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.

A timely hearing request is a request received by the Department within 10 days of the date the notice of case action was issued. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely, except that this only applies if the benefit period has not expired. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2019), pp 25-26.

On October 25, 2019, the Department notified Petitioner that she was eligible for ongoing FAP benefits with a monthly allotment less than the amount she received previously. Since November was the beginning of a new benefit certification period, the Department was prohibited from continuing the prior level of FAP benefits pending the outcome of Petitioner's timely hearing request.

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 resides in an eligible living situation. A disqualified person is one who is ineligible for FAP because the person refuses or failed to cooperate in meeting an eligibility factor. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), pp 1-9.

In order for a person in student status, age 18 through 49, and enrolled in a post-secondary educational program, must meet the criteria of the student status policy to remain eligible for FAP benefits. Department of Health and Human Services Bridges Eligibility Manual (BEM) 245 (January 1, 2018), pp 3-4.

Petitioner is an ongoing FAP recipient as a group of two, although it was not disputed that Petitioner is part of a household of three people. One of Petitioner's children is enrolled in college, she does not meet the eligibility criteria of the student status policy, and that person is therefore not eligible for FAP benefits.

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 receives monthly earned income from employment in the gross monthly amount of \$1,519, which was determined by multiplying the average of the gross weekly earnings in September of 2019 by the 4.3 conversion factor as directed by BEM 505. Petitioner also received a \$344 monthly pension payment. Petitioner's adjusted gross income of \$1,398 was determined by reducing her total monthly income by the 20% earned income deduction and the \$161 standard deduction.

Petitioner is entitled to a \$569 monthly deduction for shelter expenses. Department of Health and Human Services Reference Table Manual (RFT) 255 (October 1, 2019), pp 1. Petitioner's actual expenses, when reduced by 50% of her adjusted gross income, exceed the maximum shelter deduction, and therefore her excess shelter deduction is limited to the maximum amount available as directed by BEM 556.

Petitioner's net income of \$829 was determined by reducing her adjusted gross income by the maximum shelter deduction. A household of three with one disqualified member receiving a net income of \$829 is entitled to a \$106 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 12.


Petitioner received a \$96 monthly allotment of FAP benefits after an \$10 adjustment for the recoupment of a previously established debt as directed by BAM 725.

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 monthly allotment of Food Assistance Program (FAP) benefits as of November 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

Denise McCoggle
27260 Plymouth Rd
Redford, MI 48239

Wayne County (District 15), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

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