



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 10, 2020
MOAHR Docket No.: 20-000883
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 5, 2020, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Sausha Martin.

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. Petitioner is an ongoing Food Assistance Program (FAP) recipient.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 22-24.
3. Petitioner receives a monthly pension in the gross monthly amount of \$ [REDACTED] Exhibit A, p 25.
4. Petitioner is responsible for Medicare Part B premiums in the monthly amount of \$144.60. Exhibit A, p 22.
5. On January 6, 2020, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of her shelter expenses by January 16, 2020. Exhibit A, pp 4-6.

6. On January 21, 2020, the Department received a copy of two Western Union receipts. Exhibit A, p 8.
7. On January 21, 2020, the Department received a memorandum requesting that rent payments be mailed instead of being dropped off. Exhibit A, p 9.
8. On [REDACTED] [REDACTED] [REDACTED] the Department received a memorandum to a circuit court judge requesting assistance with avoiding having to move due to home foreclosure. Exhibit A, p 10.
9. On January 21, 2020, the Department received a copy of a utility invoice. Exhibit A, pp 11-12.
10. On January 17, 2020, the Department notified Petitioner that she was eligible for a \$6 monthly allotment of Food Assistance Program (FAP) benefits effective January 1, 2020. Exhibit A, pp 13-14.
11. The Department determined that Petitioner is eligible for a \$6 monthly allotment of Food Assistance Program (FAP) benefits effective March 1, 2020. Exhibit A, p 15.
12. On [REDACTED] [REDACTED] [REDACTED] the Department received Petitioner's request for a hearing protesting the amount of her monthly allotment of Food Assistance Program (FAP) benefits. Exhibit A, p 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.

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).

Petitioner is a FAP recipient as a household of one. Petitioner receives RSDI in the gross monthly amount of \$ [REDACTED] and a monthly pension in the gross monthly amount of \$ [REDACTED]

Petitioner disputed the Department's determination of her income.

However, the Department is required to apply "gross" income towards her eligibility for FAP benefits, which may be more than the client actually receives because the gross amount is used prior to any deductions, including Medicare premiums and recoupment.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2019), p 14.

On January 6, 2020, the Department requested that Petitioner provide verification of her shelter expenses by January 16, 2020. Petitioner failed to provide the requested documents in a timely manner, and the Department removed all shelter expenses from her FAP budget as required by BEM 554.

The Department determined that Petitioner has an adjusted gross income of \$ [REDACTED] by reducing her total gross income by the \$161 standard deduction and a \$99 medical documentation. The medical deduction was determined by reducing her total Medicare Part B premium obligation by the \$35 deduction directed by BEM 556.

Petitioner was given a standard \$30 deduction for telephone expenses, but no other shelter expenses had been verified at that point. Since Petitioner's verified shelter expenses were less than half of her adjusted gross income, Petitioner was not entitled to a shelter deduction. Therefore, Petitioner's net income was the same as her adjusted gross income for January of 2020.

A household of one with a net income of \$ [REDACTED] is entitled to a \$16 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 13. The Department reduced this monthly allotment with a \$10 recoupment. On January 17, 2020, the Department notified Petitioner that she was eligible for a \$6 monthly allotment of FAP benefits.

On January 21, 2020, the Department received some documents relevant to the rental home in which she lives, but do not verify her current obligation to pay a housing expense. On January 21, 2020, the Department received a copy of a utility bill.

Having received verification of an obligation to pay for utilities, the Department determined that Petitioner was entitled to apply the \$518 standard heat and utility deduction towards her eligibility for FAP benefits, and recipient of his deduction are not

entitled to any other deductions. Reducing this by 50% of her adjusted gross income entitled Petitioner to a \$70 excess shelter deduction.

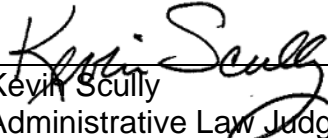
As of March 1, 2020, the Department determined that Petitioner has a net monthly income of \$ [REDACTED] by reducing her adjusted gross income by her excess shelter deduction. A household of one with a net income of \$ [REDACTED] remains eligible for a \$16 monthly allotment of FAP benefits, and the Department continues to reduce that amount by \$10 for recoupment.

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) benefits based on her verified income and expenses.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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

Richard Latimore
4733 Conner
Detroit, MI
48215

Wayne 57 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI