



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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████████████████████, MI ██████████

Date Mailed: August 19, 2020
MOAHR Docket No.: 20-004542
Agency No.: ██████████
Petitioner: ██████ ██████

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 August 11, 2020, from Lansing, Michigan. Petitioner represented himself. The Department of Health and Human Services (Department) was represented by Christa Nagy and Lee Ann Lentner.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient as a household of three when the Department received his completed Redetermination (DHS-1010) form. Exhibit A, pp 5-19.
2. Petitioner reported receiving monthly Supplemental Security Income (SSI) in the gross monthly amount of \$████ and monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$████ Exhibit A, p 14.
3. Petitioner's █████-year-old daughter receives monthly earned income from employment in the gross monthly amount of \$████ Exhibit A, pp 28-32.
4. Petitioner's █████-year-old daughter graduated from high school.

5. On June 16, 2020, the Department notified Petitioner that he was no longer eligible for Food Assistance Program (FAP) benefits effective July 1, 2020. Exhibit A, pp 36-41.
6. On June 25, 2020, the Department received Petitioner's request for a hearing protesting the closure of his Food Assistance Program (FAP) benefits. Exhibit A, p 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.

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. Parents and their children are required to be in the same FAP household group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2019), p 1.

All earned and unearned income available is countable unless excluded by policy. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2020).

The Department will disregard the earnings of an individual who is all of the following:

1. Under age 18.
2. Attending elementary, middle or high school including attending classes to obtain a GED.
3. Living with someone who provides care or supervision.

Department of Health and Human Services Bridges Eligibility Manual (BEM) 501 (January 1, 2020), p 2.

Petitioner was an ongoing FAP recipient as a household of three when the Department initiated a redetermination of his eligibility for ongoing benefits. The household of three received total income in the gross monthly amount of \$██████ which consisted of earned

income and social security benefits. Total income was reduced by the 20% earned income deduction and the \$161 standard deduction, which left him with a monthly adjusted gross income of \$[REDACTED]

Petitioner did not dispute the Department's determination of household income but argued that his minor daughter's earned income should not be countable towards the household's eligibility for FAP benefits.

Petitioner's [REDACTED]-year-old daughter is employed, and her earned income was excluded from the household's eligibility for FAP benefits while she was enrolled in high school. When the Department discovered that the daughter had graduated from high school, the student earnings were no longer disregarded, as directed by BEM 501.

Petitioner is not entitled to a deduction for shelter expenses because his monthly housing expenses are less than half of his monthly adjusted gross income.

Therefore, Petitioner's net monthly income is the same as his adjusted gross income. The net income limit for a household of three is \$1,788. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019), p 1.

Petitioner argued that it was improper for the Department to collect information to be applied towards his household's eligibility for FAP benefits by calling his minor daughter.

The Department presented substantial evidence that it properly determined Petitioner's eligibility for FAP benefits based on the best information available. Whether it was proper for the Department to question a minor child outside the presence of her parent is an issue that does not fall within the jurisdiction of Michigan Office of Administrative Hearings and Rules (MOAHR) to issue a decision.

Petitioner testified that his daughter was no longer living in his household.


As Petitioner's circumstances change, his eligibility for FAP benefits may change, but he is required to reapply for the Department to make a new eligibility determination.

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 Food Assistance Program (FAP) benefits effective July 1, 2020.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/



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

