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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: October 5, 2020
MOAHR Docket No.: 20-005557
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 October 1, 2020. Petitioner represented herself. The Department was represented by Rollin Carter.

ISSUE

Did the Department of Health and Human Services (Department) properly denied 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. The Department received Petitioner's applications for assistance on ██████████ 2020, and August 26, 2020. Exhibit A, pp 44-63.
2. Petitioner received monthly earned income from employment in the gross monthly amount of \$██████████ from July 17, 2020, through August 7, 2020. Exhibit A, pp 12-16.
3. Petitioner received an unemployment compensation payment of \$██████████ on August 1, 2020, which was her final unemployment payment. Exhibit A, p 20.
4. Petitioner's husband receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$██████████ Exhibit A, pp 17-18.
5. On August 27, 2020, the Department notified Petitioner that her application for Food Assistance Program (FAP) benefits had been denied. Exhibit A, pp 8-11.

6. On September 1, 2020, the Department received Petitioner's verbal request for a hearing protesting the denial of Food Assistance Program (FAP) benefits and a signed hearing request protesting her eligibility for Medical Assistance (MA). Exhibit A, pp 4-7.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

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, 2020).

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.

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 (July 1, 2016), p 5.

Petitioner applied for FAP benefits and reported three people living in her household. Petitioner receives earned income in the gross monthly amount of \$██████ which was determined by multiplying the average of her weekly gross income by the 4.3 conversion factor as directed by BEM 505. The hearing record supports a finding that Petitioner's husband receives SSI in the gross monthly amount of \$██████ The hearing record supports a finding that Petitioner's child received an average child support

payment of \$ [REDACTED] over the previous three months. Petitioner is entitled to a 20% earned income deduction, a \$101 medical deduction for Medicare Part B premiums less the \$35 deduction, and a \$172 standard deduction, leaving the household with an adjusted gross income of \$ [REDACTED]. The gross income limit for a household of three was \$2,311 before October 1, 2020. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2019), p 1.

However, since Petitioner's husband is an SSI recipient, that income limit does not apply to the household. Petitioner is responsible for a \$700 housing expense and she is entitled to the \$569 standard heat and utility deduction. Since she receives the standard heat and utility deduction, Petitioner is not entitled to any other deductions for shelter expenses. Since Petitioner's monthly shelter expenses are less than 50% of her adjusted gross income, Petitioner is not entitled to an excess shelter deduction.

Therefore, for August of 2020, Petitioner's net monthly household income was the same as her adjusted gross income. The net income limit for a household of three was \$1,778 before October 1, 2020. RFT 250, p 1.

For September, Petitioner received earned income in the gross monthly amount of \$ [REDACTED]. Initially, the Department continued to count Petitioner's unemployment benefits, but then revised its eligibility determination by removed that income from the budget. Based on Petitioner's earned income and her husband's social security benefits, the Department determined that Petitioner's adjusted gross income was \$ [REDACTED].

Petitioner is responsible for housing expenses of \$700 per month, and pays for utilities separately from that expenses, which entitles her to the \$518 standard heat and utility deduction. With unemployment benefits removed from the budget, Petitioner was eligible for a shelter deduction. Therefore, Petitioner is entitled to a \$235 excess shelter for September of 2020, which was determined by reducing her total shelter expenses by 50% of her adjusted gross income.

Petitioner's net monthly income for September of 2020 of \$ [REDACTED] was determined by reducing her adjusted gross income by her excess shelter deduction. A household of three with a net monthly income of \$ [REDACTED] is not entitled to any FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2019), p 24.

Petitioner testified that her rate of pay and the number of hours she is working has been reduced, but did not offer evidence showing a different amount of income than the figures the Department used to determine her eligibility for August and September. As Petitioner's circumstances change, Petitioner's eligibility for FAP benefits in the future will change as well.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the hearing record supports a finding that the Department properly determined that Petitioner was not eligible for any FAP benefits in August and September.

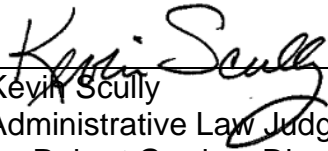
Petitioner requested a hearing after receiving a notice that she was not eligible for MA benefits. Since Petitioner's husband receives SSI benefits, he is automatically eligible for MA benefits and Department policy requires that those benefits be determined using a different case number. While Petitioner did receive a notice that she was not eligible for MA benefits, she does have an open MA benefits case under a different case number.

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) and Medical Assistance (MA) benefits.

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

Elisa Daly
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Saginaw County DHHS- via electronic
mail

BSC2- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

██████████ - via first class mail

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██████████, MI

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