



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: May 3, 2022
MOAHR Docket No.: 22-001411
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 April 28, 2022. Petitioner represented herself and she was assisted during the hearing by ██████████ ██████████. The Department was represented by Ryan Deering.

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility 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. Petitioner was an ongoing Food Assistance Program (FAP) recipient on February 17, 2022, when the Department received her completed Redetermination (DHS-1010) form. Exhibit A, p 6.
2. Petitioner reported on February 17, 2022, that she was receiving spousal support in the gross monthly amount of \$██████████ but that her income varied from month to month. Exhibit A, pp 8-9.
3. Petitioner's spouse is an ongoing recipient of Medical Assistance (MA) benefits and Long-Term Care (LTC) benefits, and the spouse is not obligated to pay a Patient Pay Amount (PPA) for those benefits based on a \$██████████ community spouse income allowance. Exhibit A, p 11.

4. On March 9, 2022, the Department notified Petitioner that she was eligible for a \$█ monthly allotment of Food Assistance Program (FAP) benefits as a household of one based on a gross monthly income of \$█, which was rounded down to a whole dollar amount as disrespected by BEM 556. Exhibit A, pp 13-14.
5. On █ █ █ the Department received Petitioner's request for a hearing protesting her eligibility for Food Assistance Program (FAP) benefits and the income being applied towards her monthly allotment of 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) 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. 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), pp 1-17.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include gross income received. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2019), pp 1-20.

On March 9, 2022, the Department determined Petitioner's eligibility for FAP benefits based on the best information available. Respondent's spouse is relieved of any obligation to pay for his long-term health care based on his reported obligation to pay a community spouse allowance to Petitioner. This community spouse allowance was used by the Department as satisfactory verification of Petitioner's countable income.

No evidence was presented at the hearing that Petitioner reported a change of income before she submitted her Redetermination form on February 17, 2022, when she reported that her monthly income varies. The Department is required to use gross income, and if Petitioner applies a portion of her community spouse allowance towards unanticipated needs of her spouse, then this is considered an expense and not a

reduction of gross income. Petitioner failed to offer any verification that she does not receive the community spouse allowance previously reported to the Department.

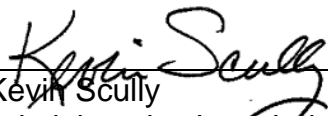
Petitioner testified that her spouse has been intentionally withholding funds from the community spouse allowance, but she failed to offer any verification of this reduction to her income. Whether the spouse in long term care has misrepresented his circumstances to the Department to gain additional benefits is beyond the scope of this hearing, but no evidence was presented during the hearing that Petitioner does not receive the gross income previously reported to the Department.

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).

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge)
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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

Bob Bush
205 E. Cayuga St
PO Box 316
Bellaire, MI 49615

Antrim County DHHS- via electronic mail

BSC1- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

██████████ - via first class mail

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