



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 13, 2024
MOAHR Docket No.: 23-009958
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 February 6, 2024, from Lansing, Michigan. Petitioner was represented by her husband and Petitioner appeared for the hearing. The Department was represented by Rolando Gomez.

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 December [REDACTED] 2023, the Department received Petitioner's Assistance Application. Exhibit A, pp 5-12.
2. Petitioner reported on her December [REDACTED] 2023, application that she was responsible for a monthly housing expense in the amount of \$[REDACTED] Exhibit A, p 10.
3. Petitioner received bi-weekly paychecks with gross earnings of \$[REDACTED] on December [REDACTED] 2023, \$[REDACTED] on January [REDACTED] 2024, and \$[REDACTED] on January [REDACTED] 2024. Exhibit A, p 15.
4. Petitioner's child receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$[REDACTED] as of January 1, 2024. Exhibit A, pp 16-18.

5. The Department notified Petitioner and her husband that their Food Assistance Program (FAP) benefits were contingent on meeting the work requirements. Exhibit A, pp 26-41.
6. On January [REDACTED] 2024, the Department notified Petitioner that she was eligible for a \$[REDACTED] monthly allotment of Food Assistance Program (FAP) benefits as a household of three as of February 1, 2024. Exhibit A, pp 44-49.
7. On December 29, 2023, the Department received a Report Changes form containing Petitioner's request for an administrative hearing in the comments section. 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) 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 income. 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 (April 1, 2022), pp 1-17.

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, 2023), pp 7-8.

Petitioner is an ongoing recipient of FAP benefits as a household of three. Petitioner receives monthly earned income in the gross monthly amount of \$[REDACTED] which was determined by multiplying her average bi-weekly earnings receiving during the previous 30 days by the 2.15 conversion factor as directed by BEM 505. This income was combined with the monthly \$[REDACTED] SSI payments and the state supplemental \$[REDACTED] payment that Petitioner's child received giving them a total household income of \$[REDACTED]. Petitioner's adjusted gross income of \$[REDACTED] was determined by reducing the gross

household income by the 20% earned income deduction and the \$198 standard deduction.

Petitioner is entitled to a \$[REDACTED] monthly shelter deduction, which was determined by reducing the total of her \$[REDACTED] housing expense and the \$680 standard heat and utility deduction by 50% of her adjusted gross income as directed by BEM 556, pp 7-8. (Rounding to dollar amounts)

Petitioner argues that reducing shelter expenses by 50% of the adjusted gross income is an improper method of determining eligibility for FAP benefits. The hearing record supports a finding that the Department determined Petitioner's shelter deduction in accordance with BEM 556 Computing the Food Assistance Budget. The Department administers FAP benefits in accordance with federal regulations as follows: Monthly shelter expenses in excess of 50 percent of the household's income after all other deductions in this section have been allowed. 7 CFR 273.9(d)(6)(ii).

Petitioner's net monthly income of \$[REDACTED] was determined by reducing the adjusted gross income by the shelter deduction. A household of three with a net monthly income of \$[REDACTED] is entitled to a \$[REDACTED] monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2023), p 14.

Petitioner had submitted a change report on June [REDACTED] 2023, where she requested an administrative hearing protesting the Department's determination of her eligibility for FAP benefits. An administrative hearing was held on August 10, 2023, and on August 18, 2023, the Department was ordered by MOAHR to redetermine Petitioner's eligibility for FAP benefits in accordance with Department policy. Petitioner argues that the Department failed to redetermine benefits in accordance with policy.

However, the August 18, 2023, Hearing Decision provided Petitioner with written instructions for appealing the results of that final decision. Petitioner's FAP benefits before June 29, 2023, are outside the scope of her December 29, 2023, hearing request and this Administrative Law Judge has no jurisdiction to hearing that grievance here.

Petitioner testified that on October [REDACTED] 2023, another Change Report was filed with the Department, which also contained a request for an administrative hearing. The issue of whether a hearing was requested on October [REDACTED] 2023, also falls outside the scope of Petitioner's December 29, 2023, hearing request.

The hearing record supports a finding that the Department is sending Petitioner written notice of work requirements for able bodied recipients of FAP assistance. Petitioner and her husband argue that sending the notice of these requirements amounts to harassment.

The Department administers FAP benefits in accordance with state law and federal regulations. Petitioner's grievance about the Department's notices centers on dissatisfaction with the Department's policy. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Petitioner is not entitled to dispute the Department's notices of the requirements for the receipt of FAP benefits outlined.

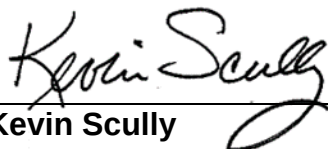
Further, a complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process but shall be referred to the department personnel director. Mich Admin Code, R 792.11002.

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/dm



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

Via-Electronic Mail :

DHHS
Tamara Jackson
Lapeer County DHHS
MDHHS-Lapeer-
Hearings@michigan.gov

HoldenM

DensonSogbakaN

BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]