



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: May 7, 2019
MOAHR Docket No.: 19-003299
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 1, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Tonya Adell, Assistance Payments Worker, and Karen Smalls, Assistance Payments Supervisor. During the hearing, a 39-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-39, and a 5-page document was offered and admitted into evidence as Exhibit B, pp. 1-5.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits upon Petitioner's January 14, 2019, application?

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 had been an ongoing recipient of FAP benefits with a household size of three receiving \$365 in FAP benefits per month. Those benefits were based on a monthly income of \$1,800 in self employment income and \$4 of unearned income. Petitioner was also given a child support deduction of \$261.01. Petitioner qualified for the maximum excess shelter deduction of \$552. Exhibit A, pp. 26-28; 36-37.

2. Petitioner's FAP case closed, effective January 1, 2019, as a result of Petitioner being found to have countable income beyond the limit for program eligibility. The additional income that was found was for Petitioner's child.
3. On January 14, 2019, Petitioner applied for FAP benefits.
4. On February 7, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that he was eligible for \$37 in FAP benefits for the period from January 14, 2019, through January 31, 2019, and \$98 per month thereafter. Removed from the budget was the deduction for child support and the expense for the home-equity line of credit. However, even with that expense removed, Petitioner received the maximum excess shelter deduction allowable for his FAP group. Exhibit A, pp. 29-34; 38-39.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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.

In this case, Petitioner applied for FAP benefits on January 14, 2019, for his household of three. Petitioner was earning a salary of \$600 per week from his employment. He was responsible for monthly housing costs of \$1,648.71, which included a home equity line of credit at \$422.51 per month. Petitioner also paid for heat and utility services. At the time of application, Petitioner was not responsible for any child support costs. Petitioner was approved for \$37 in FAP benefits from January 14, 2019, through January 31, 2019, and \$98 per month thereafter. Petitioner objects to the Department's calculation.

FAP BENEFITS, FEBRUARY 1, 2019, ONGOING

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits, and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. Additionally, the FAP calculation takes into consideration certain expenses and other deductions that

apply to reach a final net income for the purposes of determining the monthly FAP benefit amount.

Petitioner's monthly earned income was \$2,580. Earned income is reduced by a 20 percent earned income deduction. BEM 550 (January 2017), p. 1; BEM 556 (April 2018), p. 3. Subtracting the 20% earned income deduction from Petitioner's earned income results in a post-deduction total of \$2,064. That figure is further reduced by taking out the standard deduction applicable to Petitioner's group size, which is \$158, resulting in an adjusted gross income of \$1,906. Petitioner was not eligible for any other deductions for child support, dependent care, or medical expenses.

Petitioner was, however, correctly determined to be eligible for the excess shelter deduction. Petitioner had verified housing costs of either \$1,226.20 or \$1,648.71, depending on whether or not Petitioner's home equity line of credit is considered to have been verified.¹ Petitioner also qualified for the heat and utility standard of \$543. Adding Petitioner's housing expenses together results in total housing expenses of either \$1,769.20 or \$2,191.71, depending on whether Petitioner gets credit for the home equity line of credit expense. The excess shelter deduction is calculated by subtracting from the total housing expense figure (\$1,769.20 or \$2,191.71) one half of the adjusted gross income, which is \$953. The remaining amount, if greater than zero, is the excess shelter deduction. If the home equity line of credit expense is not part of the equation, the remaining amount is \$1,217.20. If the home equity line of credit expense is part of the equation, the remaining amount is \$1,639.71. However, the maximum excess shelter deduction for Petitioner's group is \$552. RFT 255 (October 2018), p. 1. As the excess shelter deduction is maxed out regardless of whether the home equity line of credit is included in the equation, the dispute over when that expense was verified is moot.

Petitioner's net income is then calculated by subtracting the excess shelter deduction of \$552 from the adjusted gross income of \$1,906, which equals \$1,354. The Food Assistance Issuance Table shows \$98 in monthly FAP benefits for a household of three with a net income of \$1,354. RFT 260 (October 2018), p. 19. That is what the Department determined and is correct. Thus, the Department is affirmed.

FAP BENEFITS JANUARY 14, 2019, THROUGH JANUARY 31, 2019

When an application for FAP benefits is filed during a month, the applicant may receive prorated FAP benefits for that month, so long as the amount is at least \$10. BEM 556 (April 2018), p. 6.

The same income and expense information detailed above applied to the period from January 14, 2019, through January 31, 2019. For some reason, the earned income for that period was overstated as \$2,721 instead of the correct earned income figure of

¹ Regardless of which figure is used, Petitioner qualifies for the maximum amount of the excess shelter deduction. Thus, while the parties focused extensively on whether the home equity line of credit expense was verified, it is entirely irrelevant to the final calculation of Petitioner's net income.

\$2,580. That error resulted in Petitioner's FAP benefits being based on a higher net income than it should have been.

The correct FAP amount should have been based on Petitioner's net income of \$1354, which corresponds to a monthly allotment of \$98. As there were 18 days Petitioner was eligible during the month of January, which has 31 days, Petitioner's prorated benefits are calculated by dividing \$98 by 31 then multiplying that figure by 18. The result is an allotment of \$56. The evidence presented at the hearing established that Petitioner was only given an allotment of \$37 in FAP benefits for that period.

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 did not act in accordance with Department policy when it determined Petitioner's FAP benefits from January 14, 2019, through January 31, 2019.

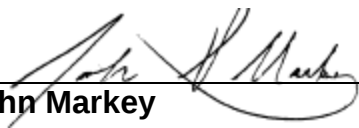
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** with respect to Petitioner's FAP benefits for February 1, 2019, ongoing and **REVERSED** with respect to Petitioner's FAP benefits for January 14, 2019, through January 31, 2019.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. If Petitioner was issued less than the \$56 in FAP benefits that Petitioner was eligible for the period from January 14, 2019, through January 31, 2019, issue to Petitioner a supplement so that his total allotment is \$56 for that period; and
2. Notify Petitioner in writing of its actions.

JM/cg



John Markey

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

Via Email:

MDHHS-Oakland-3-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]