



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: May 21, 2019
MOAHR Docket No.: 19-004006
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 20, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by John Brady, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 February 25, 2019, the Department received Petitioner's completed FAP Redetermination in addition to a copy of her [REDACTED] Insurance Premium of \$ [REDACTED] a dental bill for \$ [REDACTED] a bank statement from [REDACTED] [REDACTED] for January 2019, and proof of rental expense of \$ [REDACTED] with a \$ [REDACTED] fee for an underpayment.
2. On March 1, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of medical expenses with a notation that all proofs must include her name, date of service, obligation to pay, and the name of the provider, by March 11, 2019.

3. By March 26, 2019, the Department had not received any additional medical expense verifications; therefore, it issued a Notice of Case Action to Petitioner informing her that she was eligible for \$[REDACTED] in FAP benefits per month effective April 1, 2019 based upon \$[REDACTED] in unearned income, a \$[REDACTED] standard deduction, a \$[REDACTED] medical expense deduction, \$[REDACTED] for housing costs/rent, and \$[REDACTED] for the heat and utility standard (H/U).
4. On April 12, 2019, the Department received Petitioner's request for hearing disputing the calculation of her FAP benefit rate.

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 disputes the Department's calculation of her FAP benefit rate. 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. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Petitioner has a \$[REDACTED] (dropping the cents) per month railroad pension and a \$[REDACTED] Retirement, Survivors and Disability Insurance (RSDI) benefit. Therefore, her total monthly income is \$[REDACTED] per month. Since this income is received on a monthly basis, there is no need to further standardize it.

After income is calculated, the Department is required to review expenses and other deductions. The parties agree that Petitioner qualifies as a Senior/Disabled/Disabled Veteran (SDV) pursuant to policy and, therefore, entitled to consideration of expenses including:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses that exceed \$35.00.
- An earned income deduction equal to 20% of any earned income.

BEM 550 (January 2017); BEM 554 (August 2017), p. 1; BEM 556 (April 2018), pp. 3-4.

At the hearing, the Department presented a Net Income Budget for April 2019 in support of its case.

No evidence was presented that Petitioner has any dependent care or child support expenses and zero expenses were budgeted for each item. The Department afforded Petitioner the proper standard deduction of \$158.00 based upon a group size of one. BEM 556, p. 3; RFT 255 (October 2018), p. 1. The earned income deduction does not apply to Petitioner as her only income is her unearned income in the form of the railroad pension and RSDI benefit.

Next, the Department provided Petitioner with a \$[REDACTED] medical expense deduction. Policy provides that medical expense deductions are provided to FAP SDV clients with verified medical expenses which exceed \$35.00. BEM 554, p. 1. As part of the Department's calculation, the Department considered a \$[REDACTED] Medicare Part B premium incurred on February 1, 2019; a \$[REDACTED] medical, dental, and vision service expense incurred on June 1, 2013; a \$[REDACTED] prescription drug and over-the-counter medication expense incurred on June 1, 2013; and finally a \$[REDACTED] health and hospitalization insurance premium incurred on March 1, 2019. The Department did not consider the dental expense because there was no date of service listed on the medical bill and because Petitioner received a credit for the same expense in September 2018. In order for a medical expense to be considered, it must not be overdue. BEM 554 (April 2019), p. 11. The bill is considered not overdue if it is currently incurred, currently billed, or the client made a payment arrangement before the medical bill became overdue. BEM 554, pp. 11-12. While Petitioner testified that she was on a payment plan for the dental bill, which would allow the bill to be considered, it cannot be considered if it was previously included in any of her previous FAP budgets. Each expense is allowed to be considered one time if it is a one-time expense, and the client has the right to choose whether that deduction is spread over a period of months or is applied to only one month. BEM 554, p. 9. No evidence was presented that Petitioner requested that the expense be budgeted over a period of months. Therefore, its exclusion was proper.

At the hearing, the Department also questioned the two medical expenses from 2013, but was unable to determine if these were old expenses that should have been removed, if they were reoccurring expenses, or if there was some other circumstance which allowed them to remain in the budget. Therefore, since the Department was

unable to show that these expenses were improperly considered and their inclusion is beneficial to Petitioner, these expenses will remain part of the calculation. Therefore, Petitioner's total medical expense deduction is \$[REDACTED]

After consideration of all of the above expenses, Petitioner has an adjusted gross income (AGI) of \$[REDACTED]

After the AGI is considered, the Excess Shelter Deduction Budget must be calculated. Petitioner has a housing expense of \$[REDACTED] with a \$[REDACTED] adjustment or fee for an underpayment. Policy provides that a shelter expense must be a continuing one, and payments which exceed the normal monthly obligation are not deductible as a shelter expense. BEM 554, p. 13. Therefore, the \$[REDACTED] underpayment charge was properly excluded from consideration in Petitioner's housing expense. In addition to the housing expense, the Department also properly considered the \$[REDACTED] H/U. RFT 255 (October 2018), p. 1. Therefore, Petitioner has a total housing obligation of \$[REDACTED] BEM 556, pp. 4-5. Once the housing obligation is calculated, it is reduced by half of the AGI to achieve the Excess Shelter Deduction. *Id.* Half of Petitioner's AGI is \$[REDACTED] which when deducted from her total housing obligation totals an Excess Shelter Deduction of \$[REDACTED]

The Excess Shelter Deduction is then subtracted from Petitioner's AGI to calculate her net income of \$[REDACTED] BEM 556, p. 5. Policy provides that Petitioner is eligible for \$[REDACTED] in FAP benefits based upon a group size of one with a net income of \$[REDACTED] RFT 260 (October 2018), p. 8; BEM 556, pp. 5-7. The Department properly considered Petitioner's income and expenses to arrive at a FAP benefit rate of \$[REDACTED] effective April 2019.

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 calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



AMTM/jaf

Amanda M. T. Marler
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

Lori Duda
MDHHS-Oakland-2-Hearings

Petitioner

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