



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: August 1, 2019
MOAHR Docket No.: 19-007007
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 July 31, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], 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 June 12, 2019, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate would decrease from [REDACTED] per month to [REDACTED] per month effective July 1, 2019 because the Department had received an automatic update regarding Petitioner's receipt of Supplemental Security Income (SSI) benefits.
2. On June 24, 2019, the Department received Petitioner's request for hearing disputing the reduction in 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 reduction of her FAP benefit rate to [REDACTED] per month effective July 2019. The Department reduced Petitioner's FAP benefit rate after receiving an update from the Social Security Administration (SSA) that Petitioner began receiving an SSI benefit of [REDACTED] per month. In addition to the Federal SSI benefit, the State of Michigan also began issuing a quarterly payment of [REDACTED] to Petitioner based upon her receipt of SSI. This is considered to be a State SSI Payment (SSP). The first payment is to be issued to Petitioner in September 2019 for the period July 2019 through September 2019. As a result, the Department also budgeted [REDACTED] per month as part of Petitioner's unearned income.

The Department regularly matches recipient data with the SSA through computer data exchange processes. BAM 801 (October 2018), p. 1. The exchanges assist in verification of social security numbers, Retirement Survivors Disability Insurance (RSDI), SSI, and Medicare benefits. Id. Therefore, the Department's automatic review and update of Petitioner's FAP case was in accordance with policy.

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 did not dispute that she received an SSI benefit of [REDACTED] per month. However, Petitioner disputes the receipt of SSP benefits. Petitioner testified that she

did not apply for and does not want SSP benefits. SSI is a cash benefit to needy persons who are aged, blind, or disabled. BEM 660 (January 2017), p. 1. It is a federal program administered by the SSA. *Id.* States are allowed the option to supplement the federal benefit with state funds. *Id.* In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with state funds. *Id.* Therefore, no application is required, and the benefit is considered to be part of Petitioner's overall SSI benefit, the only distinction being the source from which it is paid. SSP benefits are issued quarterly in the final month of each quarter. BEM 503 (April 2019), p. 34. The Department counts the corresponding monthly SSP benefit amount as unearned income for purposes of the FAP program. *Id.* Therefore, although the payments are made in the last month of each quarter, the portion of the payment attributable to each month should be budgeted in the corresponding month. The Department properly budgeted \$14.00 for Petitioner's July 2019 FAP benefit calculation for the SSP payment. After consideration of Petitioner's Federal SSI benefit as well as her SSP benefit which are considered on a monthly basis, her combined unearned income is \$785.00 per month which the Department properly budgeted.

After consideration of income, the Department considers all appropriate deductions and expenses. There was evidence presented that the Petitioner is a Senior, Disabled, or Disabled Veteran. BEM 550. Thus, she is eligible for the following deductions to income:

- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.
- Dependent care expense.

BEM 554 (April 2019), p. 1; BEM 556 (April 2018), p. 3.

The Department testified and Petitioner did not dispute that the Department had not received any proof of medical expenses, child support, or dependent care expenses. Therefore, these items were properly budgeted as [REDACTED] for each expense. The Department also properly afforded Petitioner the \$[REDACTED] standard deduction pursuant to RFT 255 (October 2018), p. 1 and BEM 556, p. 3. After consideration of these items, Petitioner has an Adjusted Gross Income (AGI) of \$[REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. The parties agree that Petitioner did not have a rental expense at the time of the Department's calculations. Petitioner disputes the Department's assertion that she had no responsibility to pay for the costs of heat and electric. The Department did not become aware of Petitioner's responsibility to pay for these items until after the Department's decision was made at which point the Department sought verification of the expense. Policy requires the Department to verify expenses, including heat and utilities, before the expense can be budgeted. BEM 554, pp. 15-18. Since the Department had not received verification of the expense, it was properly budgeted at

█. Finally, because Petitioner was not eligible for the heat and utility standard and because she is responsible for the payment of her telephone bill, the Department afforded Petitioner the Telephone Standard Deduction of \$█ in accordance with policy. BEM 554, p. 22; RFT 255, p. 1. If Petitioner had provided proof of a water, sewer, cooking fuel, or trash expense, she may have been eligible for additional standard deductions. BEM 554, pp. 21-24. No evidence was presented that Petitioner ever provided any additional verifications to the Department. After all deductions and housing costs are considered, the items are added together and then 50% of Petitioner's AGI is subtracted from the total housing cost. BEM 556, pp. 4-5. Since 50% of Petitioner's income is greater than her total housing obligation, she does not have an excess shelter cost and is not eligible for the Excess Shelter Deduction. *Id.* Petitioner's AGI is equal to her Net Income of \$█. A Net Income of █ with a group size of one results in a FAP benefit of \$█ per month. RFT 260 (October 2018), p. 9.

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 effective July 1, 2019.

DECISION AND ORDER

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

AM/tm



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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]