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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 16, 2019
MOAHR Docket No.: 19-012218
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 December 9, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Pamela Bruce, Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Petitioner's 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 is an ongoing recipient of FAP benefits. Petitioner was previously approved for FAP benefits in the monthly amount of ██████. For an unknown length of time, the Department was applying a monthly medical deduction to Petitioner's FAP budget in the amount of \$████.
2. In connection with a redetermination, Petitioner's eligibility for FAP benefits was reviewed. During the review, the Department discovered that it had been improperly applying the \$████ monthly medical expense deduction to Petitioner's FAP budget.

3. After removing the medical expenses that were in collection and no longer applicable to the medical deduction, Petitioner's FAP benefits were reduced to [REDACTED] effective [REDACTED], 2019.
4. On or around [REDACTED] 2019, Petitioner requested a hearing disputing the decrease in his FAP benefits.

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 requested a hearing disputing the Department's actions with respect to his FAP benefits. Specifically, the decrease in his benefits after the redetermination was processed. Although Petitioner's hearing request references a decrease in FAP benefits to [REDACTED], the evidence established that Petitioner was approved for \$[REDACTED] in FAP benefits effective August 2019, which is the issue Petitioner requested a hearing to dispute. The Department testified that after processing Petitioner's redetermination and removing the ineligible medical expenses from the medical deduction, it determined he was eligible for [REDACTED] in monthly FAP benefits. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits for the month of August 2019, ongoing. (Exhibit A, pp. 10-15).

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 considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2019), pp. 28-29. The budget shows that Department concluded that Petitioner had gross unearned income from RSDI in the amount of \$[REDACTED]. Petitioner confirmed that he receives monthly [REDACTED] in the amount of \$[REDACTED], thus, the unearned income was properly calculated.

The deductions to income on the net income budgets were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

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

In this case, Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses; therefore, the budget properly did not include any deduction for dependent care or child support. The Department properly applied a standard deduction of [REDACTED] which was based on Petitioner's confirmed group size of one. RFT 255 (October 2018), p. 1. With respect to the excess shelter deduction of \$[REDACTED], the Department properly applied the \$543 heat and utility standard and considered Petitioner's responsibility for monthly rent in the amount of \$[REDACTED]. Although Petitioner asserted that his monthly rent had increased, based on the information available to the Department at the time the redetermination was completed, the Department properly considered [REDACTED] in monthly rent. (Exhibit A, pp. 28-35). Therefore, upon review the excess shelter deduction was properly calculated.

Petitioner is eligible for a medical deduction if he submits verified medical expenses that exceed \$35. The budget shows a medical deduction of [REDACTED]. The Department testified that this was determined based on Petitioner's monthly medical expenses at the time of the redetermination.

At application and redetermination, the Department is to estimate an SDV member's medical expenses for the benefit period based on (i) verified allowable medical expenses; (ii) available information about the SDV member's medical condition and health insurance; and (iii) changes that can reasonably be anticipated to occur during the benefit period. BEM 554, pp. 8-12.

Additionally, a FAP group is not required to, but may voluntarily report changes during the benefit period. The Department must process changes that the client voluntarily reports and verifies during the benefit period or another source reports and there is sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554, pp. 8-12. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3. Medical bills may not be

overdue, which means they are currently incurred, currently billed, or the client made a payment arrangement before the medical bill became overdue. The list of allowable medical expenses that are to be considered by the Department are found in BEM 554, at pp. 9-11. The Department will allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided and will only allow the non-reimbursable portion of a medical expense. BEM 554, p. 11. A medical expense does not have to be paid to be allowed. BEM 554, pp. 8-12.

For FAP groups that do not have a 24-month benefit period, a one-time-only medical expense may be budgeted for one month or averaged over the balance of the benefit period. BEM 554, pp. 8-9. FAP groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period: (i) the expense can be budgeted for one month; (ii) the expense can be averaged over the remainder of the first 12 months of the benefit period; or (iii) averaged over the remainder of the 24-month benefit period. BEM 554, pp. 8-9.

As referenced above, the Department stated that in recalculating Petitioner's FAP eligibility, it removed the old expenses that were improperly still being included in the budget, as the old expenses were overdue and had been sent to debt collections. (Exhibit A, pp. 19-28). Petitioner did not dispute that the expenses previously considered were overdue and did not otherwise establish that there was a payment arrangement made by him prior to the bills becoming overdue. While Petitioner maintained that he still has a responsibility to pay the overdue expenses even though they are at the collection stage, Petitioner did not present any documentation showing that he submitted any additional verifiable and allowable medical expenses to be applied to the medical deduction on the FAP budget. Upon thorough review, the Department properly removed the old overdue medical expenses from Petitioner's FAP budget and determined that for the month of August 2019, he was eligible for a medical deduction of ■■■.

Petitioner is advised that should he submitted verified allowable and current medical expenses, the Department will process the expenses in accordance with the above referenced policy and apply them to the FAP budget for the applicable months.


After further review, the Department properly determined Petitioner's net income and took into consideration the appropriate deductions to income. Based on net income of ■■■■, Petitioner's one-person FAP group is eligible for ■■■■ in monthly FAP benefits. RFT 260 (October 2018), p. 8.

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 benefits for the month of August 2019.

DECISION AND ORDER

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

ZB/tm



Zainab A. Baydoun

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

Kimberly Myers
234 West Baraga Ave.
Marquette, MI 49855
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: FAP: M. Holden; D. Sweeney
AP Specialist 1 (Marquette)