



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: July 11, 2019  
MOAHR Docket No.: 19-006193  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 8, 2019, from Detroit, Michigan. Petitioner was present with his mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

### **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 [REDACTED], 2019, Petitioner submitted an application for FAP and Medical Assistance (MA) benefits.
2. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance in the monthly amount of \$1,022.
3. On May 17, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing him that he was eligible for FAP benefits in the monthly amount of \$15 (Exhibit A, pp. 5-6).
4. On June 4, 2019, Petitioner submitted a request for hearing disputing the Department's actions related to his MA and FAP benefit cases.

## **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).

### **FAP**

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 the present case, Petitioner submitted a new application for FAP benefits on May 3, 2019. On May 17, 2019, the Department sent Petitioner a NOCA informing him that he was eligible for FAP benefits in the monthly amount of \$15. The Department presented the budget summary in the NOCA to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, p. 6).

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), pp. 1-2. 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. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8.

According to the budget provided, Petitioner had unearned income in the form of RSDI benefits in the monthly amount of \$1,022. Petitioner confirmed that he receives RSDI benefits in the gross monthly amount of \$1,022. Therefore, the Department properly calculated Petitioner's income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.

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

BEM 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses. As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. The Department included a \$90 medical expense deduction for Petitioner's Medicare Part B expense. There was evidence presented that the State of Michigan began paying the expense as of June 1, 2019. Therefore, the Department acted in accordance with policy when it included in the medical expense in the budget for May 2019.

The Department determined Petitioner was entitled to an excess shelter deduction of \$156. When calculating the excess shelter deduction, the Department will consider the client's total shelter amount and reduce that number by 50% of the adjusted gross income. The Department testified that it only included the heat/utility (h/u) standard of \$543. The Department testified that a housing expense was not included in Petitioner's FAP budget, as it had not been properly verified. The Department sent Petitioner a Verification Checklist (VCL) requesting verification of his housing expense on April 16, 2019 (Exhibit A, pp. 11-12). Proofs were due April 26, 2019.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 13. The expense must be a continuing one. BEM 554, p. 13. The Department will verify shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. BEM 554, p. 14. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

The Department presented Petitioner's electronic case file (ECF) (Exhibit A, p. 13). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. The ECF revealed Petitioner did not return verification of his housing expense. Therefore, the Department acted in accordance with policy when it did not include a housing expense in Petitioner's FAP

budget. As such, the Department properly calculated Petitioner's excess shelter deduction.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$774. Petitioner's adjusted gross income subtracted by the \$156 excess shelter deduction results in a net income of \$618. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$15. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

## **MA**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner submitted a request for hearing disputing the Department's actions related to his MA benefit case. The Department presented a Health Care Coverage Determination Notice sent to Petitioner on June 3, 2019, informing him that he was approved for full-coverage MA benefits effective May 1, 2019, and full-coverage MSP benefit effective June 1, 2019. The Department also submitted Petitioner's eligibility summary showing that he was active for MA and MSP benefits as reflected in the notice.

policy states that the Michigan Office of Administrative Hearings and Rules may grant a hearing about any of the following: (i) denial of an application and/or supplemental payments; (ii) reduction in the amount of program benefits or service; (iii) suspension or termination of program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600, p. 5. As none of the previous conditions apply to Petitioner's case, it is found there was no negative action taken in related to Petitioner's MA benefit case and there is no justiciable issue. As such, the hearing request, therefore, **DISMISSED** for lack of jurisdiction.

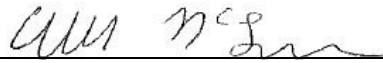
## **DECISION AND ORDER**

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 FAP benefit amount.

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

Petitioner's request for hearing related to his MA benefit case is **DISMISSED**.

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**Ellen McLemore**  
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-Macomb-12-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
MOAHR

**Petitioner – Via First-Class Mail:**

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