



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 31, 2019
MOAHR Docket No.: 19-006713
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 25, 2019, from Detroit, Michigan. Petitioner was present with his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Tiana Hamilton, Assistance Payments Supervisor and Renia Allison, Assistance Payments Worker.

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 benefits (Exhibit B).
2. On April 11, 2019, the Department sent Petitioner a Notice of Case Action informing him that his expedited FAP application was approved and he was entitled to \$147 for the period of [REDACTED], 2019 through April 30, 2019 (Exhibit D). Petitioner was informed that he was entitled to continuing FAP benefits, but he must submit the requested verifications to maintain eligibility.
3. Effective May 1, 2019, Petitioner began receiving Supplemental Security Income (SSI) benefits in the gross monthly amount of \$514 (Exhibit F).

4. On April 29, 2019, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$85 effective May 1, 2019, ongoing (Exhibit E).
5. Effective June 1, 2019, Petitioner began receiving State SSI Payment (SSP) benefits in the monthly amount of \$9 (Exhibit J).
6. On May 20, 2019, the Department sent Petitioner a Notice of Case Action informing him that his FAP benefits were decreasing to \$82 per month effective July 1, 2019, ongoing (Exhibit G).
7. On June 24, 2019, Petitioner submitted a request for hearing related to his FAP and Medical Assistance (MA) 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 an application for FAP benefits on [REDACTED], 2019. At the time the application was submitted, Petitioner did not have any reported income. As a result, the Department approved Petitioner's FAP application and determined he was entitled to FAP benefits in the amount of \$147 during the period of [REDACTED], 2019 through April 30, 2019. However, effective May 1, 2019, Petitioner began receiving SSI benefits. The Department included the income in Petitioner's FAP budget and determined he was entitled to a FAP benefit amount of \$85 per month effective May 1, 2019, ongoing. The Department presented a FAP budget summary on the April 29, 2019 Notice of Case Action to establish the calculation of his FAP benefit amount (Exhibit E).

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. According to the budget summary, the Department included unearned income in the amount of \$514. The Department presented Petitioner's State On-Line Query (SOLQ) report showing

that effective May 1, 2019, Petitioner began receiving SSI benefits in the monthly amount of \$514. Therefore, the Department properly determined Petitioner's household 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.

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. Allowable medical expense includes actual costs of transportation. BEM 554, p. 11. The Department must verify allowable medical expenses at initial application and redetermination. BEM 554, p. 12. A FAP group can also voluntarily report changes in medical expenses during the benefit period. BEM 554, p. 9. The Department will only budget the expenses if they are voluntarily reported and verified. BEM 554, p. 9.

Petitioner's AHR alleged that Petitioner has monthly medical expenses for transportation. Petitioner's AHR argued that Petitioner incurs an expense of around \$300 per month for transportation costs that should have been included in the budget. Petitioner's AHR acknowledged that no attempts were made to verify the medical expense. Petitioner's AHR stated that Petitioner did not submit verification of the expense, as he was not aware that transportation costs were an allowable deduction.

The Department highlighted that in the FAP application, Petitioner did not report any medical expenses (Exhibit B, p. 5). Additionally, Petitioner did not report any medical expenses in his FAP interview (Exhibit C, p. 2). Petitioner did not submit any verification of any medical expenses. As such, the Department acted in accordance with policy when it did not provide Petitioner a medical expense deduction.

In calculating the excess shelter deduction of \$0, the Department stated that it considered that Petitioner was not responsible for a housing expense, nor any utilities. Petitioner was provided with the \$31 telephone standard, as he maintains a cell phone. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted

gross income, which resulted in a deficit. Therefore, the Department correctly determined Petitioner was not entitled to an 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 \$356. As Petitioner was not entitled to an excess shelter deduction, his net income is also \$356. 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 \$85. Therefore, the Department properly calculated Petitioner's FAP benefit amount effective May 1, 2019, ongoing.

The Department testified that effective June 1, 2019, Petitioner began receiving SSP benefits in the monthly amount of \$9. The Department included the income and determined he was entitled to FAP benefits in the monthly amount of \$82 effective July 1, 2019, ongoing.

With the exception of the increase in income, Petitioner's circumstances did not change. Petitioner did not submit any medical expense verifications, and his housing expenses remained at \$0. Therefore, the only change to Petitioner's gross and net income was an increase of \$9. Petitioner's new net income was \$365. Per RFT 260, Petitioner's FAP benefit issuance is \$82. Therefore, the Department properly determined Petitioner's FAP benefit amount effective July 1, 2019, ongoing.

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 was an ongoing MA recipient. Petitioner stated in his hearing request that he was informed by his insurance provider that he no longer had dental care. The Department testified that effective June 1, 2019, Petitioner was placed under the SSI MA program. The Department confirmed with Petitioner's insurance provider that he did have dental coverage. The Department presented a Health Care Coverage Determination Notice issued on April 30, 2019, showing Petitioner was approved for full-coverage MA (Exhibit I).

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

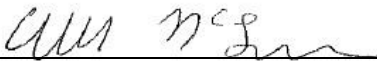
program benefits or service; (iv) restrictions under which benefits or services are provided; (v) delay of any action beyond standards of promptness; or (vi) for FAP only, the current level of benefits or denial of expedited service. BAM 600, p. 5. As none of the previous conditions apply to Petitioner's case, it is found that there is no justiciable issue. As such, the hearing request related to Petitioner's MA benefit case is **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**.

EM/cg



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-Wayne-57-Hearings
M. Holden
D. Sweeney
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]

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

[REDACTED]
[REDACTED]
[REDACTED]