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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 4, 2020
MOAHR Docket No.: 20-000394
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on February 27, 2010 from Warren, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Darrell Rich, supervisor, and Tyra Leslie, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility beginning January 2020.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2020, Petitioner was a recipient of FAP benefits as a member of a 1-person benefit group.
2. As of January 2020, Petitioner was a senior [REDACTED] and/or disabled.
3. As of January 2020, Petitioner received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of [REDACTED]
4. As of January 2020, Petitioner had the following monthly expenses: \$0 for child support, \$0 for dependent care, and [REDACTED] in medical.

5. As of January 2020, Petitioner was responsible for a monthly rent or mortgage of [REDACTED]. Petitioner was also responsible for heat and/or cooling costs.
6. As of January 15, 2020, MDHHS had not issued FAP benefits to Respondent for January 2020.
7. On J [REDACTED] 2020, Petitioner requested a hearing to dispute not receiving FAP benefits in January 2020.
8. On January 21, 2020, MDHHS determined Petitioner was eligible for [REDACTED] per month in FAP benefits beginning January 2020.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute not receiving FAP benefits in January 2020. After Petitioner requested a hearing, MDHHS corrected its error and issued FAP benefits to Petitioner. Despite the FAP issuance, Petitioner appeared for the hearing to dispute the FAP issuance amount. A Notice of Case Action dated January 21, 2020, stated that Petitioner was eligible for [REDACTED] in FAP benefits beginning January 2020.

Petitioner testified that he also wanted a hearing to dispute various decreases to his FAP eligibility in 2019. Petitioner did not state this dispute within his written hearing request. Due to the Petitioner not raising the issue in his hearing request, there is no basis for administration hearing jurisdiction for this particular complaint. As a courtesy to Petitioner, the issue was discussed during the hearing. A comparison of budget summaries listing Petitioner's income and expenses demonstrated that Petitioner received more FAP benefits in months after submitting proof of out-of-pocket medical expenses. For example, Petitioner submitted bills of [REDACTED] and [REDACTED] to MDHHS on unspecified dates. Exhibit A, pp. 23-24. Because the expenses were not recurrent, MDHHS properly budgeted the expenses for only one month (see BEM 554). In the months when MDHHS increased Petitioner's medical expenses, Petitioner received additional medical expenses. Petitioner was advised to continue submitting medical expenses to MDHHS as he incurs them.

Concerning Petitioner's FAP eligibility for January 2020, the Notice of Case Action dated January 21, 2020, listed all relevant budget factors. Exhibit A, pp. 27-31 MDHHS also presented budget pages for Petitioner's FAP eligibility for January 2020. Exhibit A,

pp. 10-11 and 26. During the hearing, all budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

MDHHS factored Petitioner's gross monthly RSDI of [REDACTED]. Petitioner acknowledged that his income was correctly budgeted.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. Countable expenses are subtracted from a client's monthly countable income.

Petitioner was senior and/or disabled. Petitioner's testimony acknowledged having no child support or dependent care expenses. For medical expenses, MDHHS factored Petitioner's monthly insurance premiums of [REDACTED]. Exhibit A, p. 25. After applying a [REDACTED] deductible, Petitioner was left with [REDACTED] in countable medical expenses.

Petitioner's FAP benefit group size justifies a standard deduction of [REDACTED] (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's income results in an adjusted gross income of [REDACTED].

MDHHS budgeted Petitioner's housing costs to be [REDACTED]. Petitioner testified that MDHHS accurately budgeted his housing costs.

MDHHS credited Petitioner with a responsibility for heating costs and issued a standard heating/utility (h/u) credit of [REDACTED]. RFT 255 (October 2019) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.¹ Adding Petitioner's housing and utility credits results in a total shelter obligation of [REDACTED].

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is [REDACTED] (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The result is a net income of \$606. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance.

¹ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for January 2020 is [REDACTED]; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's FAP eligibility for January 2020 to be \$16. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki
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-20-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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