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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 6, 2020
MOAHR Docket No.: 20-000975
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, a telephone hearing was held on March 5, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kelly Teed, hearings facilitator.

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 December 2019, Petitioner and her mother were recipients of FAP benefits under a 2-person benefit group.
2. As of January 2020, Petitioner and/or her mother was/were a senior (over 60 years old) and/or disabled.
3. As of January 2020, Petitioner's mother received gross monthly Retirement, Survivors and Disability Insurance (RSDI) of \$1,838.
4. As of January 2020, Petitioner and her mother had the following monthly expenses: \$0 for child support, \$0 for dependent care, and \$270 in medical.

5. As of January 2020, Petitioner and her mother were responsible for monthly housing expenses averaging \$812.99. Petitioner was also responsible for heat and/or cooling costs.
6. On January 8, 2020, MDHHS determined that Petitioner was eligible for \$105 in monthly FAP benefits beginning January 2020.
7. On February 4, 2020, Petitioner requested a hearing to dispute her FAP eligibility for 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 a reduction in FAP benefits. Exhibit A, p. 2. During the hearing, Petitioner expressed concern that MDHHS reduced her FAP benefit eligibility when her circumstances had not changed from the month before. MDHHS testimony explained that Petitioner's FAP eligibility was reduced due to a reduction in housing costs; specifically, Petitioner's second mortgage was reduced by approximately \$300. MDHHS' testimony was credible and consistent with Petitioner's budget from October 2019. Though MDHHS' testimony was credible, the analysis will proceed to examine all factors of Petitioner's FAP eligibility for January 2020.

A Notice of Case Action dated January 8, 2020, stated that Petitioner was eligible for \$105 in FAP benefits beginning January 2020. Exhibit A, pp. 10-11. The notice listed all relevant budget factors. MDHHS also presented budget pages for Petitioner's FAP eligibility from December 2019. Exhibit A, pp. 6-7. During the hearing, all budget factors were discussed with Petitioner. BEM 556 outlines the factors and calculations required to determine FAP eligibility.

In determining Petitioner's group's FAP eligibility, MDHHS factored an unearned income of \$1,838. Documentation from Social Security Administration obtained by MDHHS in a data exchange with the Social Security Administration listed Petitioner's mother's monthly RSDI as \$1,838. Exhibit A, pp. 3-4. Petitioner's testimony acknowledged that her mother's RSDI 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 and/or her mother were senior and/or disabled. Petitioner's testimony acknowledged having no child support or dependent care expenses. For medical expenses, MDHHS factored monthly medical expenses of \$270; Petitioner's testimony acknowledged that the amount budgeted was correct. Applying the mandatory \$35 copayment results in \$235 in countable medical expenses.

Petitioner's FAP benefit group size justifies a standard deduction of \$161 (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 and countable expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's group's countable income results in an adjusted gross income of \$1,442.

MDHHS budgeted Petitioner's group's housing costs to be \$812.99. Petitioner's testimony acknowledged that her group's housing expenses were correctly budgeted.

MDHHS credited Petitioner's group with a responsibility for heating costs and issued a standard heating/utility (h/u) credit of \$518. 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 group's housing and utility credits results in a total shelter obligation of \$1,331.

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 \$610.

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 \$832. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for January 2020 is \$105; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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.

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 group's FAP eligibility for January 2020 to be \$105. 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-12-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

