



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: May 21, 2020
MOAHR Docket No.: 20-001453
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 May 13, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Hearing Facilitator and Tanisha Gill, Eligibility Specialist.

ISSUE

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

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 was an ongoing FAP recipient.
2. In February 2020, Petitioner completed a redetermination related to his FAP benefit case.
3. Petitioner's household consisted of himself, his wife and their five children.
4. Petitioner's wife had income from employment (Exhibit A, pp. 7-10).

5. Petitioner had unearned income in the form of Supplemental Security Income (SSI) benefits in the gross monthly amount of \$783 and State SSI Payment (SSP) benefits in the gross monthly amount of \$14 (Exhibit A, pp. 11-13).
6. On February 5, 2020, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$[REDACTED] effective March 1, 2020, ongoing (Exhibit A, pp. 5-6).
7. On [REDACTED], 2020, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FAP recipient. In February 2020, Petitioner completed a redetermination related to his FAP benefit case. As a result, the Department redetermined Petitioner's FAP eligibility. The Department determined that Petitioner was eligible for FAP benefits in the monthly amount of \$[REDACTED] effective March 1, 2020, ongoing. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 15-17).

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. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's

wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2020), pp. 6-7.

Per the budget provided, the Department included an earned income amount of \$[REDACTED]. The Department presented pay statements submitted by Petitioner for his wife's income from employment. Petitioner's wife was paid on January 2, 2020, in the gross amount of \$[REDACTED]; on January 9, 2020, in the gross amount of \$[REDACTED]; on January 16, 2020, in the gross amount of \$[REDACTED]; and on January 23, 2020, in the gross amount of \$[REDACTED]. Petitioner's wife was paid weekly. When averaging the pay statements and multiplying by the 4.3 multiplier, it results in a standard monthly income amount of \$[REDACTED]. Therefore, the Department properly calculated Petitioner's household earned income.

For FAP benefit cases, the Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35.

The Department included \$797 in unearned income in Petitioner's FAP budget. The Department presented Petitioner's State Online Query (SOLQ) report showing that Petitioner receives \$783 in gross monthly SSI benefits. Additionally, Petitioner receives a quarterly SSP benefit payment which averages to \$14 in gross SSP benefits per month. Petitioner confirmed those figures were correct. Therefore, the Department properly determined Petitioner's household unearned 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 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$425. Petitioner's FAP benefit group size of seven justifies a standard deduction of \$234. 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 provided Petitioner with a \$234 medical expense deduction. The Department testified that Petitioner received the deduction in error, as it was a one time only expense that was improperly budgeted as an ongoing expense. However, the error was in Petitioner's favor. Therefore, the error is considered harmless.

In calculating the excess shelter deduction of \$45, the Department stated that it considered Petitioner's verified housing expense of \$550 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$518. 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. Petitioner's excess shelter deduction was properly calculated at \$45 per month.

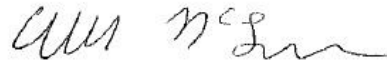
At the hearing, Petitioner argued that the Department should include his verified expenses including tuition, credit card payments, and transportation costs. FAP allowable expenses includes: (i) basic shelter expenses such as rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group, property taxes, state and local assessments and insurance on the structure, and home repairs of a home which was substantially damaged or destroyed due to a natural disaster; (ii) the h/u standard or individual utility standards; (iii) utility installation fees charged by the utility provider, excluding deposits; and (iv) well/septic installation and maintenance. BEM 554, pp. 13-25. Policy does not provide for FAP deductions for the expenses mentioned by Petitioner. Therefore, the Department properly followed policy when it did not include those expenses in Petitioner's FAP budget.

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 \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$45 excess shelter deduction results in a net income of \$[REDACTED]. 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 \$417. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

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**.

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-55-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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