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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: April 1, 2020
MOAHR Docket No.: 20-001672
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 March 26, 2020. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Melissa Brandt, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit 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. On February 4, 2020, Petitioner completed a redetermination related to her FAP benefit case (Exhibit A, pp. 4-13).
3. Petitioner's household consisted of herself and her daughter.
4. 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.
5. Petitioner's daughter had income from employment (Exhibit A, pp. 15-16).

6. On March 2, 2020, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the monthly amount of \$25 effective March 1, 2020, ongoing (Exhibit A, pp. 48-49).
7. On [REDACTED], 2020, Petitioner verbally requested a hearing to dispute 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. On February 4, 2020, Petitioner completed a redetermination related to her FAP benefit case. On March 2, 2020, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the monthly amount of \$25. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 45-47).

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 (October 2019), pp. 6-7.

Per the budget provided, the Department determined that Petitioner's household had a standard monthly earned income amount of \$622. The Department presented an employment verification from Petitioner's daughter's income from employment. Petitioner's daughter was paid on January 23, 2020, in the gross amount of \$253.30 and on February 5, 2020, in the gross amount of \$325.30. Petitioner's daughter was paid biweekly. When averaging the payment amounts and multiplying by the 2.15 multiplier, it results in a standard monthly earned income amount of \$622. Therefore, the Department properly determined Petitioner's household earned income.

The Department also included a standard unearned income amount of \$853 in Petitioner's FAP budget. The Department testified that Petitioner received \$783 in gross monthly SSI benefits and \$14 per month in gross monthly SSP benefits. Petitioner confirmed those figures were correct.

The Department also included \$56 in unearned income in the form of child support. When calculating child support income, the Department uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 4. If there are known changes that will affect the amount of the payments in the future, the Department will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5.

The Department presented Petitioner's Child Support Consolidated Inquiry (Exhibit A, pp. 24-25). In November 2019 and December 2019, Petitioner did not receive any child support payments. In January 2020, Petitioner received \$170 in child support income. When averaging the three months, it results in a standard monthly child support income amount of \$56. Therefore, the Department properly calculated Petitioner's child support income. As it follows, the Department properly determined Petitioner's household unearned income amount.

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.

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 \$125.

Petitioner's FAP benefit group size of two justifies a standard deduction of \$161. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

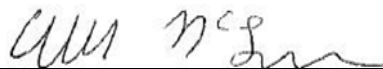
In calculating the excess shelter deduction of \$91, the Department stated that it considered Petitioner's verified housing expense of \$167 and that she was entitled to the heat/utility standard of \$518. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$91 per month.

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 \$1,189. Petitioner's adjusted gross income subtracted by the \$91 excess shelter deduction results in a net income of \$1,098. 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 \$25. 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 eligibility. 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-Ionia-Hearings
M. Holden
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Petitioner – Via First-Class Mail:

