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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 16, 2020
MOAHR Docket No.: 20-005186
Agency No.: ██████████
Petitioner: ██████████

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 hearing was held on September 9, 2020, via telephone conference. Petitioner did not participate. Petitioner was represented by an authorized hearing representative (AHR): ██████████, Petitioner's guardian and brother. The Michigan Department of Health and Human Services (MDHHS) was represented by Charletta Toteh, supervisor.

ISSUE

The issue is whether MDHHS properly determined 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. As of July 2020, Petitioner was an ongoing recipient of FAP benefits, disabled, and the only member of a FAP group.
2. As of July 2020, Petitioner received monthly Retirement, Survivors, and Disability Insurance (RSDI) of \$████████.
3. As of July 2020, Petitioner had no dependent care, child support, or recently reported projectable medical expenses.
4. As of July 2020, Petitioner was responsible for \$697.50 in housing expenses and eligible for a heating expense.

5. On July 18, 2020, MDHHS determined that Petitioner was eligible for \$37 in FAP benefits beginning August 2020.
6. On August 3, 2020, Petitioner's AHR requested a hearing to dispute Petitioner's FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS 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's AHR requested a hearing to dispute a decrease in FAP benefits. Exhibit A, p. 3. A Notice of Case Action dated July 18, 2020, stated that Petitioner was eligible for \$37 in FAP benefits effective August 2020 based on a net income of \$█.¹ Exhibit A, pp. 18-22.

During the hearing, Petitioner's AHR questioned why Petitioner's FAP eligibility changed when he has stable circumstances. Petitioner's AHR's questioning does not directly impact whether MDHHS properly determined Petitioner's FAP eligibility. Nonetheless, MDHHS credibly responded that Petitioner's FAP eligibility increased in July 2020 due to a one-time medical expense (Exhibit A, p. 9) as well as a change in Petitioner's eligibility for the standard heating credit.² MDHHS further explained that Petitioner's FAP eligibility was reduced to \$37 in August 2020 after the one-time medical expense was removed from the budget.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented Petitioner's FAP budget from August 2020 which listed all relevant budget factors and calculations. Exhibit A, pp. 12 and 23-24. Additionally, a budget summary within the notice dated July 18, 2020, listed all relevant budget factors. Exhibit A, p. 19. During the hearing, all budget factors were discussed with Petitioner's AHR.

¹ Since at least April 2020, Petitioner received \$194 in monthly FAP benefits: the maximum amount of FAP benefits for a 1-person group RFT 260 (October 2019) p. 1. Petitioner only received the maximum FAP issuance due to a temporary policy during the COVID-19 pandemic allowing FAP recipients to receive the maximum issuance amount for the group. As the policy is only temporary, an analysis of Petitioner's ongoing FAP eligibility is appropriate.

² Petitioner's AHR acknowledged that Petitioner was not responsible for the cost of heating or other utilities. MDHHS explained that Petitioner was eligible for a heating credit because he received a LIHEAP payment exceeding \$20 in the previous 12 months (see BEM 554 (January 2020) p. 15).

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.³ Petitioner's AHR did not dispute the benefit group size.

MDHHS also factored Petitioner's gross monthly RSDI of \$[REDACTED]. Documentation of a data exchange from Social Security Administration verified that Petitioner had \$[REDACTED] in monthly RSDI. Exhibit A, pp. 14-16. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP, Petitioner's gross monthly RSDI of \$[REDACTED] is countable.

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.

In determining Petitioner's FAP eligibility, MDHHS factored that Petitioner had no child support, dependent care, or medical expenses. Petitioner's AHR's testimony acknowledged that Petitioner had no child support or day care expenses. There was evidence that Petitioner was potentially eligible for medical expense credits.

MDHHS is to estimate an SDV person's medical expenses for the benefit period. BEM 554 (January 2020) p. 8. The estimate is to be based on verified allowable medical expenses, available information about the SDV member, and reasonable anticipatable changes. *Id.*, pp. 8-9. Changes should only be processed if reported and verified. *Id.*, p. 9. Medical expenses are only allowed for bills that are not overdue. *Id.*, p. 11. Medical bills that are not overdue would be those that are: incurred for the current benefit month, billed for the current month, and/or the client made a payment arrangement before the bill became overdue. *Id.*

Petitioner's AHR admitted he did not report any ongoing medical expenses for Petitioner to MDHHS. As noted above, MDHHS factored a medical expense for Petitioner for his eligibility in July 2020. MDHHS credibly stated that it received a \$7,000+ bill from Petitioner's hospital stay in May 2020. MDHHS concluded that Petitioner's hospital bill from May 2020 was not indicative of recurrent medical expenses as a hospitalizations are unexpected and unpredictable; Petitioner's AHR did not dispute MDHHS's conclusion. Given the evidence, MDHHS properly determined Petitioner's medical expenses to be \$0 for August 2020.

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

³ See BEM 212 for policies on determining group size for FAP benefits.

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 income results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$697.50. Petitioner's AHR did not allege additional housing expenses. Petitioner was credited with 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.⁴ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,216 (rounding up to nearest dollar).

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 \$637 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$522 in net income for Petitioner's group. 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 August 2020 is \$37; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

⁴ 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 to be eligible for \$37 in FAP benefits beginning August 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tlf



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-Wayne-76-Hearings
BSC4 Hearing Decisions
D. Sweeney
M. Holden
MOAHR

Authorized Hearing Rep.

- **Via First-Class Mail:**

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██████████
██████ MI ██████

Petitioner

- **Via First-Class Mail:**

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