



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 1, 2021
MOAHR Docket No.: 20-008672
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 24, 2021. The Petitioner was self-represented and had his mother, [REDACTED], appear as a witness. The Department of Health and Human Services (Department) was represented by Ashley Bowden, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 24, 2020, the Department received Petitioner's completed Redetermination on which he indicated that the household had income for Petitioner as a home help provider in the amount of \$1,314.54 per month and income for his mother in the amount of \$522.00, then listed his student loan as his only expense but was not asked on the form about his housing expenses.
2. On [REDACTED] 2020, the Department received a Shelter Verification form indicating that there was a shelter obligation of approximately \$900.00 and a notation that they pay for all shelter related expenses including a mortgage, property taxes, home insurance, electrical, heat, water, phone, and any other items.

3. On December 2, 2020, the Department issued a Notice of Case Action to Petitioner notifying him that effective January 1, 2021, the Department determined Petitioner's FAP benefit rate to be \$15.00 per month based upon a group size of one, \$1,655.00 in earned income, a \$331.00 earned income deduction, a Standard Deduction of \$167.00, a housing cost of \$200.00, and the heat and utility standard deduction (H/U) of \$537.00.
4. On December 17, 2020, the Department received Petitioner's request for hearing disputing the Department's calculation of his FAP benefit rate.

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 disputes the Department's calculation of his FAP benefit rate. To determine whether the Department properly calculated it, an evaluation of the Department's budget calculations is necessary, starting with income. All countable, gross 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 2020), 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 (January 2021), p. 1. 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. 6-8. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9.

Petitioner agrees that he receives \$1,655.00 per month as a home help aid for his mother but notes that this amount is only temporary based upon a COVID-19 supplement. At this time, there is no indication that this additional income should not be considered in determining eligibility as it is still considered earned income from employment. BEM 501 (January 2021). Since the income is received on a monthly

basis, there is no need to further standardize it. Petitioner does not have any other sources of income; therefore, his total gross income is \$1,655.00.

After consideration of income, the Department considers all appropriate deductions and expenses. No evidence was presented that Petitioner is a Senior, Disabled, or Disabled Veteran. BEM 550. Therefore, he 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.
- 20% earned income deduction

BEM 554 (January 2020), p. 1; BEM 556, pp. 3-6.

The Department budgeted \$0.00 for child support and dependent care expenses which Petitioner does not dispute. The Department properly budgeted the standard deduction of \$167.00 for a group size of one in accordance with Department policy. RFT 255 (January 2021), p. 1. Finally, he is eligible for an earned income deduction totaling \$331.00. After consideration of all these expense deductions, Petitioner's Adjusted Gross Income (AGI) is \$1,157.00.

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. Petitioner contributes to the shelter expenses that are listed in his mother's name. The Department budgeted \$200.00 for Petitioner's contribution and provided him the H/U but noted that he had not verified his contribution to the housing expenses. However, policy no longer requires verification of shelter obligations unless considered questionable. BEM 554, p. 15; Economic Stability Administration (ESA) Memorandum ESA 2020-31 (July 15, 2020). No evidence was presented that Petitioner's actual contribution to the shelter expenses was questionable. Furthermore, in Petitioner's request for hearing and then again at the hearing, Petitioner noted that he contributes between \$435.00 and \$500.00 per month towards the housing expenses, including the mortgage and utilities. Therefore, the Department did not properly consider Petitioner's shelter obligation but properly provided him the H/U of \$537.00 per month. The H/U is provided to clients who are responsible for the cost of their heat and electric bills. BEM 554, p. 15. Individuals eligible for the H/U are not eligible for any other utility standards such as trash, water, sewer, or telephone expenses. *Id.* Once the utility standards are considered, the housing expense (\$435.00) and utility standards (\$537.00) are added together for a total housing expense of \$972.00. BEM 556, p. 5. Petitioner's total housing expense is then reduced by half of his AGI (\$579.00) resulting in an excess shelter cost of \$393.00. *Id.*

The excess shelter cost is then subtracted from his AGI to achieve his Net Income of \$764.00. BEM 556, pp. 5-6. At this point, Petitioner's Net Income is considered against the Food Assistance Issuance Tables for a FAP benefit rate of \$19.00 per month. RFT 260 (January 2021), p. 9. The Department afforded Petitioner a \$16.00 FAP benefit per

month; therefore, the Department did not properly calculate Petitioner's FAP benefit rate.

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 did not act in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP eligibility effective January 1, 2021;
2. If otherwise eligible issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge
for Elizabeth Hertel, 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-17-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Petitioner- Via USPS:

