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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 10, 2019
MAHS Docket No.: 19-002143
Agency No.: ██████████
Petitioner: ██████████

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 April 3, 2019, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Kendra Williams, Eligibility Specialist. Also present was Bengali Interpreter, ██████████.

ISSUE

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

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. Effective January 1, 2019, Petitioner's Supplemental Security Income (SSI) benefit amount increased to \$██████ per month (Exhibit C).
3. Petitioner also received State SSI Payment (SSP) benefits in the monthly amount of \$██████ (Exhibit J).
4. Petitioner was the sole member of her FAP group.

5. On December 8, 2018, the Department sent Petitioner a Notice of Case Action informing her that her FAP benefit amount was decreasing to \$■■■■ per month effective January 1, 2019, ongoing (Exhibit A).
6. On March 4, 2019, 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 submitted a request for hearing disputing the Department's decision to decrease her FAP benefits. The Department testified that Petitioner's FAP benefits were reduced because Petitioner received an increase in her SSI benefit amount effective January 1, 2019. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit H).

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. According to the budget provided, the Department determined Petitioner had \$■■■■ in unearned income. The Department presented Petitioner's State Online Query (SOLQ) report showing Petitioner received \$■■■■ per month in SSI benefits. The Department also presented evidence that Petitioner receives \$■■■■ in SSP benefits every quarter, which was calculated to be \$14 per month. Petitioner's SSI and SSP benefit total is \$■■■■. Therefore, the Department properly calculated Petitioner's household 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; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

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. Petitioner's FAP benefit group size of one justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1.

The Department determined Petitioner was entitled to an excess shelter deduction of \$605. When calculating the excess shelter deduction, the Department will consider the client's total shelter amount and reduce that number by 50% of the adjusted gross income. The Department testified that it included a \$375 housing expense and the \$537 heat/utility (h/u) standard in the total shelter amount.

Housing expenses include 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. BEM 554, p. 13. The expense must be a continuing one. BEM 554, p. 13. The Department will verify shelter expenses at application and when a change is reported. BEM 554, p. 14. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. BEM 554, p. 14. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. For FAP cases, the Department allows the client 10 calendar days to provide the verification that is required. BAM 130, p. 7.

Petitioner's AHR testified that Petitioner's rent had increased in 2018. However, Petitioner's AHR acknowledged that neither she, nor Petitioner, had submitted verification of the increase in the shelter amount. Therefore, the Department acted in accordance with policy when it did not increase Petitioner's housing expense.

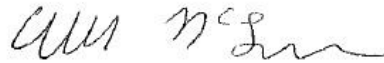
In calculating the excess shelter deduction of \$605, the Department stated that it considered Petitioner's verified housing expense of \$375 and that she received the Low Income Home Energy Assistance Payment (LIHEAP) payment, entitling her to the heat/utility standard of \$543. BEM 554, pp. 14-19. 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 \$605 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 \$█ Petitioner's adjusted gross income subtracted by the \$605 excess shelter deduction results in a net income of \$█ 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 \$█ 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/jaf

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Montrece White
MDHHS-Macomb-20-Hearings

Authorized Hearing Rep.

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