



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: August 27, 2019
MOAHR Docket No.: 19-007192
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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, an in-person hearing was held on August 22, 2019, from Ypsilanti, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

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 is an ongoing recipient of FAP benefits. Petitioner was previously approved for FAP benefits in the monthly amount of \$[REDACTED].
2. In connection with a Mid-Certification, Petitioner's eligibility to receive FAP benefits was reviewed.
3. During the review, the Department discovered that it had been improperly budgeting Petitioner's unearned income from Retirement Survivors Disability Insurance (RSDI). Due to agency error, the Department was previously budgeting only \$[REDACTED] in RSDI for Petitioner, rather than the \$[REDACTED] that she actually received monthly.

4. After updating Petitioner's unearned income and housing expenses, the Department sent Petitioner a Notice of Case Action (Notice) on April 2, 2019, informing her that effective May 1, 2019, she was approved for \$█ in monthly FAP benefits. (Exhibit A, pp. 13-14)
 - a. The Comments From Your Specialist About This Notice section further informs Petitioner that her food benefits have been decreased based on her ongoing unearned income and that excess food benefits were issued to her from July 2018 to April 2019 in error. It further indicates that the excess food benefits may be recouped from Petitioner's future benefits and that if any recoupment action is taken on her case, she will receive correspondence. (Exhibit A, pp. 13-14)
5. On or around July 3, 2019, Petitioner requested a hearing disputing the Department's actions with respect to her FAP benefits. (Exhibit A, pp. 3-11)

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 requested a hearing disputing the Department's actions with respect to her FAP benefits. After some discussion regarding Petitioner's FAP eligibility going back to 2017, purchases made using an EBT card issued to but not received by her, and her fluctuating benefits since that time, Petitioner was informed that the undersigned Administrative Law Judge (ALJ) did not have the authority to address such issues, as they occurred more than 90 days prior to her July 3, 2019 request for hearing. See BAM 600. The hearing proceeded with respect to the amount of Petitioner's FAP benefits, specifically, the decrease in her FAP allotment to \$█ effective May 1, 2019.

The Department testified that after processing Petitioner's Mid-Certification review and correcting her unearned income amount, it determined that she was eligible for \$37 in monthly FAP benefits. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly

calculated the amount of Petitioner's FAP benefits for the month of May 2019, ongoing. (Exhibit A, pp. 20-22).

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 considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 2019), pp. 28-29. The budget shows that Department concluded that Petitioner had gross unearned income from RSDI in the amount of \$[REDACTED]. Petitioner confirmed that she receives monthly RSDI in the amount of \$[REDACTED], thus, the unearned income was properly calculated.

The deductions to income on the net income budgets were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2017), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (April 2019), p. 1; BEM 556 (April 2018), p. 3.

In this case, Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses; therefore, the budget properly did not include any deduction for dependent care or child support. Petitioner is eligible for a medical deduction if she submits verified medical expenses that exceed \$35. There was no evidence that Petitioner timely submitted any verified medical expenses to be applied to the deduction on her FAP budget. Petitioner was informed that the Department will process any applicable expenses submitted in the future and apply them to the medical deduction in accordance with Department policy. Thus, the medical deduction was properly determined to be \$0 based on the information available to the Department at the time of the review.

The Department properly applied a standard deduction of \$158 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2018), p. 1. With respect to the excess shelter deduction of \$457, the Department properly applied the \$543 heat and utility standard and considered Petitioner's responsibility for monthly rent in the amount of \$400, which Petitioner confirmed was correct. Therefore, upon review the excess shelter deduction was properly calculated.

After further review, the Department properly determined Petitioner's net income and took into consideration the appropriate deductions to income. Based on net income of \$█, Petitioner's one-person FAP group is eligible for \$█ in monthly FAP benefits. RFT 260 (October 2018), p. 8.

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 calculated Petitioner's FAP benefits effective May 1, 2019.

Petitioner raised additional concerns regarding a proposed or potential recoupment action as referenced in the April 2, 2019, Notice. However, it was established that as of the hearing date, Petitioner had not received any notices of overissuance or other correspondence from the Department indicating that a recoupment action due to overissued FAP benefits was commenced. Petitioner was informed that should she receive such notice or correspondence, she was entitled to request a hearing to dispute the action.

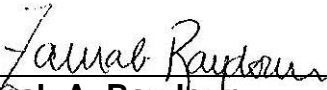
Petitioner also had concerns regarding her Medicare Savings Program (MSP) benefits. Specifically, she testified that she received a notice advising her of a case closure due to a failure to return a redetermination, despite having timely submitting the redetermination to the Department. After some inquiry, it was established that on July 19, 2019, and after her July 3, 2019 Request for Hearing, the Department issued a Health Care Coverage Determination Notice advising Petitioner that effective August 1, 2019, her MSP case would be closed due to a failure to return a redetermination. The Department acknowledged that this notice was issued in error, as the redetermination was timely submitted and processed late by the case worker. As a result, on July 30, 2019, the Department sent Petitioner a subsequent Health Care Coverage Determination Notice, advising her that effective August 1, 2019, she was approved for full coverage MSP benefits. Petitioner confirmed receiving the approval notice. (Exhibit B)

As such, there is no issue to resolve with respect to her MSP benefits, as the negative action notice was issued after her Request for Hearing and subsequently resolved prior to the hearing date. Petitioner is informed that should she receive any future notices of case closure or negative actions for her MSP case, she is entitled to request a new hearing.

DECISION AND ORDER

Accordingly, the Department's FAP decision is **AFFIRMED**.

ZB/tlf



Zainab A. Baydoun
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:

Petitioner – Via First-Class Mail:

