



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]

Date Mailed: September 10, 2019
MOAHR Docket No.: 19-008499
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, an in-person hearing was held on September 5, 2019, from Inkster, Michigan. Petitioner was present with his daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator and Robynn Rhodes, Eligibility Specialist.

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. In July 2019, Petitioner completed a redetermination related to his FAP benefit case (Exhibit A).
3. Petitioner's child had income from employment (Exhibit G and E).
4. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the gross monthly amount of \$865).

5. Petitioner's wife and three of his children each had RSDI benefits in the gross amount of \$21 per month. One of Petitioner's children had gross monthly RSDI benefits in the monthly amount of \$20.
6. On July 17, 2019, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$399 effective August 1, 2019, ongoing (Exhibit B).
7. On July 23, 2019, Petitioner reported to the Department that his child obtained a second job.
8. On July 29, 2019, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$291 effective September 1, 2019, ongoing (Exhibit D).
9. On ██████████ 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 was an ongoing FAP recipient. In July 2019, Petitioner completed a redetermination related to his FAP benefit case. At the redetermination, the Department learned that Petitioner's eldest child had attained the age of 18. As a result, the Department included the income in Petitioner's FAP budget, as policy only allows the student earnings disregard when a child is under the age of 18. BEM 501 (July 2017), p. 2. The Department determined Petitioner was entitled to \$399 in FAP benefits. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit C).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), 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 (April 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. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. 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. BEM 501 (July 2017), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7.

The Department determined that Petitioner's child had earned income in the standard monthly amount of \$[REDACTED]. The Department presented a pay statement submitted by Petitioner which shows that his daughter was paid on June 12, 2019, in the gross amount of \$[REDACTED]. Petitioner's daughter was paid biweekly. When multiplying the gross figure by the 2.15 multiplier, it results in a standard monthly earned income amount of \$[REDACTED]. Therefore, the Department properly determined Petitioner's household earned income.

The Department testified that Petitioner's household's combined RSDI benefit amount was \$969. Petitioner did not dispute the figure. Therefore, the Department properly calculated Petitioner's standard 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2017), p. 1; BEM 556 (July 2013), 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. 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 \$334. Petitioner's FAP benefit group size of six justifies a standard deduction of \$228. RFT 255 (October 2016), p. 1.

In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$270.79 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$526. 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, which resulted in a deficit. Therefore, Petitioner's excess shelter deduction of \$0 was properly calculated.

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 \$[REDACTED]. As Petitioner was not entitled to an excess shelter deduction, his net income is also \$[REDACTED]. 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 \$399. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

The Department testified that on July 23, 2019, Petitioner advised the Department that his child began working a second job. The Department included the additional income in Petitioner's FAP budget. The Department determined that Petitioner was entitled to \$291 in FAP benefit. The Department presented a budget showing the calculation of Petitioner's FAP benefit amount (Exhibit F).

The Department testified that the only factor that changed in Petitioner's FAP budget was that \$[REDACTED] dollars in earned income was added to the monthly FAP budget. The Department presented the Work Number report for Petitioner's child's second employer (Exhibit E). The document shows that on July 26, 2019, Petitioner's child was paid \$[REDACTED]. Petitioner's child was paid on a biweekly basis. When multiplying the figure by the 2.15 multiplier, it results in a standard monthly amount of \$[REDACTED]. After adding the additional income, Petitioner's net income amount was increased to \$[REDACTED]. Per RFT 260, a group size of six with a net income of \$[REDACTED] entitled to \$291 per month.

At the hearing, Petitioner's child testified that her second job began on June 28, 2019. Petitioner's child testified that she stopped working at the first job on August 4, 2019. Petitioner's child stated that she did not submit verification of the loss of employment until the end of August 2019.

The Department is required to remove stopped income from the budget for future months. BEM 505 (April 2017), p. 8. However, the Department must verify income changes that result in a benefit increase or when change information is unclear, inconsistent or questionable BEM 505, p. 14.

Petitioner's child was working a both jobs in July 2019. At the time the Notice of Case Action was issued on July 29, 2019, Petitioner's child was still employed with both employers and had not submitted verification of the impending loss of employment.

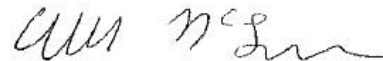
Therefore, the Department acted in accordance with policy when it included the income from both jobs.

At the hearing, Petitioner's daughter testified that her income does not support the family. Petitioner's daughter presented documents showing that her income is spent on school-related expenses, such as books and technology (Exhibit 1). The Department counts all income of all group members unless specifically excluded. BEM 500, p. 3. Policy also sets forth expenses that are designated as allowable deductions in a FAP budget. BEM 554. All of the receipts for the expenses submitted by Petitioner are not allowable expenses. The Department presented sufficient evidence that Petitioner was provided deductions for all of his allowable expenses provided by policy. Thus, the Department acted in accordance with policy when it determined 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-Wayne-19-Hearings
M. Holden
D. Sweeney
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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