



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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Date Mailed: December 19, 2019
MOAHR Docket No.: 19-012393
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 18, 2019, from ██████████ Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Deann Jordan, Eligibility Specialist, and Olivette Gordon, Family Independence Manager.

ISSUE

1. Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?
2. Did the Department properly close the Petitioner's Medical Assistance (MA)?

FINDINGS OF FACT

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

1. The Petitioner requested a hearing regarding the closure of her MA benefits with respect to a Health Care Coverage Determination Notice dated October 3, 2019. At the hearing, the Department's hearing summary confirmed the MA case was reinstated on the record. The Petitioner agreed and withdrew her hearing request regarding her MA closure on the record.
2. The Petitioner was an ongoing recipient of FAP benefits. After ending her maternity leave, Petitioner provided the Department with a paystub after she

returned to work for pay date September 13, 2019. The Petitioner is paid biweekly, and her pay for the period August 26, 2109, through September 8, 2019, was used in the gross amount of \$[REDACTED]. The Petitioner acknowledged that this amount was usual and correct for an 80-hour pay period. The Department also deducted an earned income deduction in the amount of \$[REDACTED]0 Exhibits 3 and 5.

3. The Petitioner's FAP group consists of four members, and the Petitioner's rent is \$850.00. The Department provided Petitioner who pays for her heat and utility (h/u) allowance of \$518.00. The Department also applied a standard deduction for a group of four persons in the amount of \$172.00. Exhibits 5 and 6.
4. The Department issued a Notice of Case Action on October 3, 2019, on September 1, 2019, and approved the Petitioner for FAP benefits in the monthly amount of \$[REDACTED]. Exhibit 4.
5. The Petitioner requested a timely hearing on November 14, 2019, protesting the Department's action.

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, the Petitioner withdrew her hearing request on the record regarding the closure of her MA as it was reinstated.

Petitioner also sought review of her FAP benefit amount as she had just returned from unpaid maternity leave and began earning income when her leave ended and she returned to work. She provided the Department all the requested verification including her rent, her paystub on return to work, and proof that she paid heat. The Petitioner's FAP budget was reviewed at the hearing in detail. One issue raised by Petitioner that could not be addressed was the Department's failure to include her dependent care expenses reported to the Department on November 25, 2019, after her benefits had been calculated. The Department acknowledged receipt of her childcare expenses which Petitioner received which were over and above Child Development and Care

(CDC) benefits that she receives and at the time of the hearing was processing the changes which had not yet been completed. As explained at the hearing, this issue cannot be addressed as it arose after the Department Notice of Case Action regarding Petitioner's FAP benefits issued October 3, 2019.

The Petitioner's FAP budget and the Excess Shelter Calculations were reviewed at the hearing and were determined to be correct. The following outlines the budget calculations that were demonstrated to be in compliance with Department policy.

The following amounts used by the Department to recalculate FAP benefits are correct and were confirmed by Petitioner at the hearing. The gross earned income was based upon one paystub in the amount of \$ [REDACTED], which was confirmed as correct gross pay by Petitioner for an 80-hour two-week period. The FAP group size was four members, and the housing cost for rent was \$850.00 and a utility allowance of \$518.00 was also correctly added to bring total housing expenses to \$1,368.00. The Department also provided a \$172.00 standard income deduction of \$172.00 based on a group size of four.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2017), pp. 1-4. The Department considers the gross amount of money earned or received from Retirement, Survivors and Disability Insurance (RSDI) Social Security income due to disability and includes the gross amount of income from employment wages. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of four members. BEM 550 (October 2019), p. 6. Groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following deductions from income:

- Dependent care expense.
 - Excess shelter up to the maximum in Reference Tables Manual RFT 255.
 - Court ordered child support and arrearages paid to non-household members.
 - Standard deduction based on group size.
 - An earned income deduction equal to 20% of any earned income.
- BEM 554 (October 2019), p. 1; BEM 556 (July 2019).

In this case, Petitioner had earned income; and therefore, the Department applied a 20 percent earned income deduction of \$487.00, which was deducted from the gross income resulting in post earned income of \$1,947.00 (\$2,434.00 - \$487.00 = \$1,947.00). There was no evidence presented that Petitioner paid child support. Therefore, the budget properly did not include any deduction, child support and medical expense (see discussion above regarding dependent care expense. Based on confirmed four-person group size, the Department properly applied and deducted the \$172.00 standard deduction. RFT 255 (October 2019), p. 1.

When the Standard Deduction of \$172.00 is deducted from the post-earned income of \$1,947.00, it is determined that the Department correctly determined the Adjusted Gross Income to be \$1,775.00 ($\$1,947.00 - \$172.00 = \$1,775.00$). Exhibits 2 and 3.

In calculating Petitioner's excess shelter deduction, the Department must determine the eligible monthly shelter costs. The Department properly considered Petitioner's rent of \$850.00 and included a \$518.00 h/u allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The Department correctly determined the Petitioner's shelter expenses to be \$1,368.00. A review of the excess shelter deduction calculation and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$481.00. BEM 556, pp. 4-5; RFT 255, p. 1.

In determining monthly FAP benefits, the net income must be determined. In this case, the net income was \$1,294.00. To determine net income, 50 percent of the adjusted gross income of \$1,775.00 or \$887.00 is deducted from the shelter expenses of \$1,368.00. ($\$1,368.00 - \$887.00 = \481.00). The excess shelter deduction of \$481.00 is then deducted from adjusted gross income to determine net monthly income. ($\$1,775.00 - \$481.00 = \$1,294.00$). Based on net income of \$1,294.00 and a FAP group size of four members, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$257.00. BEM 556; RFT 260 (October 2016), p. 8. See Exhibit 3.

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 the Petitioner's FAP benefits.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** with respect to the FAP benefit calculation.

The Petitioner's request for Hearing regarding the closure of her MA was withdrawn on the record and is, therefore, **DISMISSED**.

IT IS SO ORDERED.

LMF/jaf



Lynn M. Ferris

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

DHHS (via electronic mail)

Richard Latimore
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