



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], MI 48154

Date Mailed: March 11, 2020
MOAHR Docket No.: 20-000896
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 March 5, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Valerie Foley, Hearings Facilitator.

Respondent's Exhibits 1-11 (pages 1-29) were admitted as evidence.

ISSUE

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

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 [REDACTED], 2019, Petitioner applied for FAP benefits.
2. The application was processed, and a verification checklist was mailed to Petitioner detailing what was needed to determine her FAP eligibility.
3. On January 8, 2020, Petitioner was contacted via telephone and due to Petitioner's disability, Petitioner gave permission to speak with her grandmother for the required FAP interview.

4. The case worker explained to Petitioner's grandmother what verifications were needed and the acceptable form of the verifications.
5. Petitioner submitted the requested verifications which included verification of income, verification of shelter expenses and medical expenses.
6. Petitioner receives SSI income in the amount of \$ [REDACTED] and RSDI income in the amount of \$ [REDACTED] monthly. She receives SSP quarterly income in the amount of \$ [REDACTED]. She also receives employment income which was budgeted based on the Petitioner's gross income from her December 13, 2019, and December 27, 2019, check stubs.
7. A landlord submitted a statement which verified that Petitioner is responsible for paying \$297.00 monthly in home rent. He was also verified that Petitioner is responsible for both electric and telephone expense.
8. Petitioner submitted a medical bill which showed a one-time expense of \$73.58 that was incurred in July 2019, and a recurrent prescription cost of \$4.24 that was incurred on December 28, 2019.
9. After reviewing the FAP budget for accuracy, the food assistance was certified, and a benefit decision notice was sent to Petitioner.
10. On January 23, 2020, the Department sent Petitioner Notice of Case Action that Petitioner was eligible to receive Food Assistance Program benefits in the amount of \$16.00 per month.
11. On January 30, 2020, Petitioner filed a request for hearing to contest the Department's determination of her Food Assistance Program benefit allotment.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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.

Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, Table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255.

Document income budgeting on either a manually calculated or an automated FAP worksheet. (BEM 550, page 1)

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

In the instant case, based on information Petitioner provided, Petitioner was receiving monthly countable unearned income of \$ [REDACTED] and \$ [REDACTED] in earned income for a total monthly income of \$ [REDACTED]

Petitioner was given the standard unearned income deduction of \$161.00 plus an earned income deduction of \$31.00 for a total deduction of \$191.00 and a medical deduction of \$43.00 for an adjusted gross income of \$ [REDACTED]

\$ [REDACTED] x .30 (net income divisor) = \$ [REDACTED]

The maximum monthly FAP benefit for a one-person group = \$194.00.

\$194.00 maximum benefit - \$ [REDACTED] (30% of net income) = a negative, but because Petitioner receives disability, she may receive \$16.00 in monthly FAP benefit allotment.


A review of Petitioner's case reveals that the Department budgeted the correct amount of income received by Petitioner at the time of determination. Petitioner's deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. If Petitioner provides the Department with information that Petitioner now receives less monthly earned income, the Department can reassess Petitioner's eligibility for increased Food Assistance Program benefits.

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 has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a \$16.00 per month in Food Assistance Program benefits. The Department has established its case by a preponderance of the evidence.

DECISION AND ORDER

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

LL/hb



Landis Lain
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

Wayne County (District 19) via electronic mail

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Authorized Hearing Rep.

[REDACTED], MI [REDACTED]

Petitioner

[REDACTED], MI [REDACTED]