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

GRETCHEN WHITMER
GOVERNOR

ORLENE HAWKS
DIRECTOR

Date Mailed: June 4, 2020
MOAHR Docket No.: 20-001871
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 June 1, 2020, from Detroit, Michigan. Petitioner was present with ████████. The Department of Health and Human Services (Department) was represented by MeShawn Coleman, Eligibility Specialist.

ISSUE

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

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 ████████, 2020, Petitioner submitted an application for FAP benefits (Exhibit A, pp. 8-18).

2. Petitioner's household consisted of herself and one other individual.

3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the gross monthly amount of $958.

4. Petitioner's group member had unearned income in the form of Supplemental Security Income (SSI) benefits in the gross amount of $783 per month and State SSI Payment (SSP) benefits in the gross monthly amount of $14.

5.   On February 26, 2020, the Department sent Petitioner a Notice of Case Action informing her that she was approved for FAP benefits in the monthly amount of $72 (Exhibit A, pp. 29-33).

6.   On March 3, 2020, 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 an application for FAP benefits on ▮▮▮▮▮▮▮, 2020. On February 26, 2020, the Department sent Petitioner notification that she was eligible for FAP benefits in the monthly amount of $72. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 39-42).

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. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28. For FAP benefit cases, the Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35.

Per the budget provided, the Department included $1,755 in unearned income when calculating Petitioner's FAP benefit amount. The Department stated that Petitioner receives RSDI benefits in the gross monthly amount of $958. Petitioner's FAP group member receives $783 in gross monthly SSI benefits and $14 per month in gross SSP benefits. Petitioner confirmed those figures were correct. Therefore, the Department properly determined 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 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

Petitioner's FAP benefit group size of two justifies a standard deduction of $161. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

As both Petitioner and her group member are SDV members, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of $35. BEM 554, p. 1. The Department testified that it included Petitioner's Medicare Part B premium of $104.90 and a medical bill of $161.40. With the $35 exclusion, Petitioner's medical expense deduction was $231.
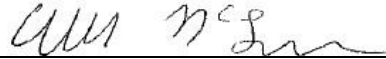
In calculating the excess shelter deduction of $422, the Department stated that it considered Petitioner's verified housing expense of $585 and that she was responsible for a monthly heating expense, entitling her to the heat/utility standard of $518. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at $422 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 $1,363. Petitioner's adjusted gross income subtracted by the $422 excess shelter deduction results in a net income of $941. 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 $72. 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 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:

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

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Via Email: MDHHS-Macomb-20-Hearings
                                            M. Holden
                                            D. Sweeney
                                            BSC4- Hearing Decisions
                                            MOAHR

Petitioner – Via First-Class Mail: