



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 13, 2020
MOAHR Docket No.: 20-005607
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 October 8, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Michelle Collins, Eligibility Specialist and Hearings Coordinator, as well as Omar Hussein, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 August 18, 2020, the Department received Petitioner's employment verification form for Provalis dated August 17, 2020 showing she was employed full time at a rate of \$ [REDACTED] per hour and paid bi-weekly with her most recent check having been issued on August 7, 2020.
2. On August 19, 2020, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefits were decreasing to \$180.00 per month for a group size of five effective September 1, 2020 after consideration of \$2,136.00 in earned income, \$797.00 in unearned income, a housing expense of \$975.00, the heat and utility standard deduction (H/U) of \$518.00, and the standard deduction of \$203.00.

3. On August 26, 2020, the Department received Petitioner's request for hearing disputing the reduction in her FAP benefit rate.

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 disputes the Department's calculation of her FAP benefit rate. To determine whether the Department properly calculated it, an evaluation of the Department's budget calculations is necessary, starting with income. All countable, gross 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 2020), 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 (October 2017), p. 1. 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. For income received bi-weekly, the Department averages the income received in the month and multiplies it by 2.15. *Id.*

To calculate Petitioner's standardized earned income, the Department considered employment verifications dated July 25, 2020 in the amount of \$ [REDACTED] and August 7, 2020 in the amount of \$ [REDACTED]. After these two paychecks are added together, divided by two, and multiplied by 2.15, the standardized monthly income is \$2,136.94.

Petitioner agrees that a household member receives Supplemental Security Income (SSI) benefits in the amount of \$797.00. Since SSI benefits are received on a monthly basis, there is no need to further standardize this income.

Therefore, total monthly household income is \$2,933.94.

After consideration of income, the Department considers all appropriate deductions and expenses. There was evidence presented that a household member was a Senior,

Disabled, or Disabled Veteran (SDV). BEM 550. Therefore, 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.
- 20% earned income deduction.
- Medical deduction for expenses greater than \$35.00 for the SDV individual.

BEM 554 (January 2020), p. 1; BEM 556, pp. 3-6.

The Department budgeted \$0.00 for child support, dependent care, and medical expenses which Petitioner does not dispute. The Department properly budgeted the standard deduction of \$203.00 for a group size of five in accordance with Department policy. RFT 255 (January 2020), p. 1. Finally, the group receives a 20% deduction for the portion of income which is earned or \$428.00.

After consideration of all these expenses and deductions, Petitioner's Adjusted Gross Income (AGI) is \$2,302.00.

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. Petitioner has a rental expense of \$975.00 per month. In addition, she is responsible for her heat and electric bills. The Department properly budgeted the housing expense and afforded Petitioner the heat and utility standard deduction (H/U) of \$518.00. The H/U is provided to clients who are responsible for the cost of their heat and electric bills. BEM 554, p. 15. Individuals eligible for the H/U are not eligible for any other utility standards such as trash, water, sewer, or telephone expenses. *Id.* Once the utility standards are considered, the housing expense (\$975.00) and utility standards (\$518.00) are added together for a total housing expense of \$1,493.00. BEM 556, p. 5. Petitioner's total housing expense is then reduced by half of her AGI (\$1,151.00) resulting in an excess shelter cost of \$342.00. *Id.*

The excess shelter cost is then subtracted from her AGI to achieve her Net Income of \$1,960.00. BEM 556, pp. 5-6. At this point, Petitioner's Net Income is considered against the Food Assistance Issuance Tables for a FAP benefit rate of \$180.00 per month. RFT 260 (October 2019), p. 24. The Department properly calculated Petitioner's FAP benefit rate.

During the hearing, there was some discussion and confusion related to the end of Petitioner's employment and continued budgeting of the associated income. Petitioner's work with Employer did not end until August 28, 2020, 11 days after the Notice of Case Action in this case. Therefore, the income was properly budgeted. Any

changes associated with the loss of employment income would have been processed after the Notice of Case Action involved in this case.

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 benefit rate.

DECISION AND ORDER

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

AMTM/cc



Amanda M. T. Marler
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-55-Hearings
M. Holden
D. Sweeney
BSC4-HearingDecisions
MOAHR

Petitioner- Via USPS:

[REDACTED]
[REDACTED], MI [REDACTED]