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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: November 20, 2020
MOAHR Docket No.: 20-006393
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 November 19, 2020, from Detroit, Michigan. Petitioner was present with his Authorized Hearing Representative (AHR), ██████████. The Department of Health and Human Services (Department) was represented by Darlean Shaw, 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.
2. Petitioner was the sole member of his FAP group.
3. Petitioner was receiving unearned income in the form of Unemployment Compensation Benefits (UCB) in the gross amount of \$██████ per week.
4. On September 17, 2020, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the amount of \$16 per month (Exhibit A, pp. 5-10).
5. On September 28, 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 [REDACTED], 2020. The Department determined that Petitioner was eligible for FAP benefits in the amount of \$16 per month. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 12-14).

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. The Department includes the gross UCB income as unearned income. BEM 503, p. 38. 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. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9.

Per the budget provided, the Department included \$[REDACTED] in unearned income in Petitioner's FAP budget. The Department testified that Petitioner received a biweekly UCB payment of \$[REDACTED]. When multiplying Petitioner's biweekly UCB income amount by the 2.15 multiplier, it results in a standard monthly income amount of \$[REDACTED]. Petitioner's AHR confirmed that Petitioner receives UCB on a biweekly basis in the amount of \$[REDACTED]. Therefore, the Department properly determined Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (January 2017), pp. 1-2. 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.
- An earned income deduction equal to 20% of any earned income.

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

Petitioner's FAP benefit group size of one justifies a standard deduction of \$161. RFT 255 (January 2020), 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.

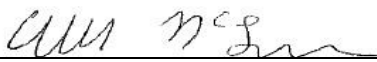
In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$200 and that he was only entitled to the telephone standard of \$30, as his utilities were included in his rent. BEM 554, pp. 14-15. The Department testified when calculating 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, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

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 \$16. 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 benefit eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/jem



Ellen McLemore
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

