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GOVERNOR

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

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DIRECTOR

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Date Mailed: June 16, 2021
MOAHR Docket No.: 21-002394
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on June 9, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Sonya Reynolds, specialist. Respondent testified and was unrepresented.

ISSUE

The issue is whether MDHHS properly terminated Petitioner’s Food Assistance Program (FAP) benefits eligibility due to excess income.

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 ██████████ 2021, Petitioner applied for FAP benefits and reported a household with his spouse, ██████████ (hereinafter, “Spouse”), and three children: ████ (Son), ██████████ (hereinafter, “Daughter1”), and ██████████ (hereinafter, “Daughter2)/ Petitioner also reported that everyone buys and prepares food together and that Daughter1 worked 35 hours per week for \$██████ per hour for ██████████ (hereinafter, “Employer”). Additionally, Petitioner reported monthly housing expenses of \$1,300 and an obligation to pay heat.
2. As of March 2021, Spouse received the following gross monthly income: \$██████ in Retirement, Survivors, Disability Insurance (RSDI), \$██████ in Supplemental Security Income (SSI), and \$██████ in averaged State Supplemental Payments (SSP).

3. As of March 2021, Daughter2 received the following gross monthly income: \$ [REDACTED] in RSDI, \$ [REDACTED] in SSI, and \$ [REDACTED] in averaged SSP.
4. As of March 2021, Son received \$ [REDACTED] in monthly RSDI.
5. As of March 2021, Petitioner received \$ [REDACTED] in monthly RSDI.
6. As of March 2021, Daughter1 received \$ [REDACTED] in gross employment income for performing chore services for Daughter2.
7. On April 13, 2021, MDHHS denied Petitioner's application for FAP benefits due to excess income.
8. On May 3, 2021, Petitioner requested a hearing to dispute FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program [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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of FAP benefit application. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] 2021. Exhibit A, pp. 6-12. A Notice of Case Action dated April 13, 2021, stated that Petitioner's application was denied due to excess income. Exhibit A, pp. 27-28.

BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing some of the calculations justifying application denial. Exhibit A, pp. 24-26. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of five.¹ The group size was consistent with Petitioner's application which reported a household of five persons and that everyone buys and prepares food together. Petitioner did not dispute the benefit group size.

It was not disputed that Petitioner received \$ [REDACTED] in gross monthly RSDI. Social Security Administration (SSA) documents indicated that Spouse, Daughter2, and Son each

¹ See BEM 212 for policies on determining group size for FAP benefits.

received \$36 in monthly RSDI. Exhibit A, pp. 13-21. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. Petitioner's group's countable RSDI totals \$[REDACTED].

It was not disputed that as of March 2021, Spouse and Daughter2 received \$648 and \$778 in monthly SSI, respectively. Exhibit A, pp. 13-18. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. Petitioner's benefit group received a total of \$[REDACTED] in countable SSI.

As SSI recipients, it is presumed that Spouse and Daughter2 each received \$[REDACTED] quarterly SSP payments which average \$[REDACTED] per month.² For FAP, MDHHS is to count a gross SSP benefit. BEM 503 (January 2020) p. 36. Petitioner's benefit group received a total of \$[REDACTED] in countable SSP.

In total, Petitioner's group received \$[REDACTED] in countable monthly unearned income. MDHHS calculated the same unearned income for Petitioner's group.

Daughter1 additionally received income from Employer. Petitioner's application reported that Daughter1 received \$[REDACTED] for 35 hours of weekly employment which was paid biweekly. For FAP benefits, MDHHS generally counts gross wages.³ BEM 501 (July 2017), p. 7. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Multiplying Daughter1's hourly wage by reported biweekly hours of 70 results in a biweekly gross income of \$[REDACTED]. Multiplying the biweekly income of \$[REDACTED] by 2.15 results in a countable income from Employer of \$[REDACTED].

Petitioner's testimony acknowledged that Daughter1 also received employment income for caring for Daughter2. Employment records verified that Daughter1 received gross monthly income of \$[REDACTED]7 for the employment. Exhibit A, pp. 22-23. Adding the income from her two jobs, Daughter2 received a total of [REDACTED] (dropping cents) in monthly employment income. MDHHS inexplicably factored a slightly smaller income amount of \$[REDACTED]. As the income of \$[REDACTED] factored by MDHHS is lower (thus, more favorable for Petitioner), it will be accepted as accurate.

MDHHS allows a 20% budget credit for timely reported employment income. Applying the credit results in countable employment income of \$[REDACTED] (dropping cents) for Daughter1. Adding Daughter1's countable employment income of \$[REDACTED] to the group's unearned income of \$[REDACTED] results in a total countable income of \$[REDACTED].

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-

² See BEM 660 for policy on SSP.

³ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS also considers the medical expenses above \$35 for each SDV group member(s) and an uncapped excess shelter expense. Countable expenses are subtracted from a client's monthly countable income.

MDHHS factored no medical, child support, or dependent care expenses. Petitioner reported no medical, child support, or dependent care expenses on his application. Exhibit A, p.12. Petitioner contended that his daughter has significant tuition and vehicle expenses and that MDHHS should have factored them in determining FAP eligibility. Neither tuition nor vehicle expenses are considered in determining FAP benefits. Thus, MDHHS properly counted the group's non-shelter expenses to be \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$212 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction and countable expenses from Petitioner's running net income results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$1,300; Petitioner did not allege having additional housing expenses. Petitioner was credited with a standard heating/utility (h/u) credit of \$537. RFT 255 (January 2021) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁴ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,837.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$0.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$[REDACTED] in net income for Petitioner's group. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance for March 2021 is \$0; the same issuance amount was calculated by MDHHS. Thus, MDHHS properly denied Petitioner's application for FAP benefits.

⁴ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED] 2021, requesting FAP benefits. The actions taken by MDHHS are **AFFIRMED**.

CG/jm



Christian Gardocki
Administrative Law Judge

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-17-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

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