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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: August 6, 2021
MOAHR Docket No.: 21-003182
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 July 28, 2021, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Taylor Glenn, back up Hearing Coordinator (HC).

During the hearing proceeding the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-81.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Previously an adoption support subsidy was not counted as unearned income for FAP.
2. Effective January 1, 2021, an adoption support subsidy is counted as unearned income for FAP due to the loss of the Strengthening Michigan Families waiver. (Exhibit A, pp. 4 and 7-8)
3. Petitioner was receiving FAP benefits of [REDACTED] per month. (Exhibit A, p. 1)

4. On June 5, 2021 a Verification Checklist was issued to Petitioner requesting verification of the adoption subsidy with a June 15, 2021 due date. (Exhibit A, pp. 57-58)
5. On June 14, 2021, Petitioner submitted verification of the adoption support subsidy. (Exhibit A, pp. 3 and 59)
6. On June 17, 2021, a Notice of Case Action was issued to Petitioner stating the FAP allotment would be reduced to [REDACTED] per month effective July 1, 2021. This was due to the addition of the adoption support subsidy income. (Exhibit A, pp. 60-64; HC Testimony)
7. On June 25 and 26, 2021, Petitioner submitted a statement from the landlord showing an increase in the base rent to [REDACTED]. (Exhibit A, pp. 3 and 65-66)
8. On June 25, 2021, a Notice of Case Action was issued to Petitioner stating the FAP allotment would be increased to [REDACTED] per month effective July 1, 2021. This was due to the increased shelter expense. (Exhibit A, pp. 67-71; HC Testimony)
9. On June 28, 2021 Petitioner verbally requested a hearing contesting the FAP determination. (Exhibit A, pp. 72 and 79)

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 calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits such as Retirement Survivors and Disability Insurance (RSDI) and Supplemental Security Income (SSI). BEM 503, April 1, 2021, pp. 29-31 and 35-38. The Department counts the gross benefit amount as unearned income. The Department also counts the corresponding monthly amount of the quarterly State SSI payments as unearned income. BEM 503, pp. 29, 35-37. The Department also counts adoption support subsidies as income for all programs except Medicaid. BEM 503, pp. 2-3.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (April 1, 2021), p. 13. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 16.

Petitioner testified that he wanted to be sure everyone was on the same page regarding the FAP budget. For example, Petitioner indicated he was always told that SSI benefits are not counted as income for FAP. (Exhibit 1; Petitioner Testimony)

The BEM 503 policy indicates that current SSA issued SSI benefits are countable as income for FAP. However, for other programs, such as Medicaid, SSI benefits are excluded. (BEM 503, p. 35) As explained by the HC, the loss of the Strengthening Michigan Families waiver resulted in a policy change regarding adoption support subsidy income. Effective January 1, 2021, an adoption support subsidy is counted as unearned income for FAP. (Exhibit A, pp. 4 and 7-8; HC Testimony) Further, the full h/u standard includes all utility costs, such as heat, electric, water and sewer, telephone, cooking fuel, and trash removal. BEM 554, pp. 22-25.

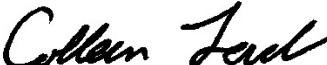
This Administrative Law Judge must review the Department's determination under the existing policy and has no authority to change or make any exceptions to Department policy. The FAP budget was reviewed with Petitioner and the included income and expenses were correct under the BEM policies.

Overall, the evidence shows that the Department properly calculated Petitioner's FAP budget using the countable income and allowable expenses. The Department properly recalculated the FAP budgets due to the policy change regarding adoptions support subsidy income and when a change in shelter expense was reported and verified. 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 eligibility for FAP.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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

DHHS

MDHHS-Genesee-Clio-Hearings
BSC2
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Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]