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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: March 24, 2022
MOAHR Docket No.: 22-000364
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 teleconference on March 17, 2022. Petitioner appeared and represented herself. Melissa Stanley, Hearings Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine 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. Petitioner was an ongoing recipient of FAP benefits.
2. On December 20, 2021, MDHHS sent Petitioner a New Hire Client Notice, which instructed Petitioner to complete the form concerning her employment at ██████████ (Employer) and return it to MDHHS by January 3, 2022 (Exhibit A, p. 9). Petitioner completed and returned the form on January 4, 2022 (Exhibit A, pp. 9-10).
3. On January 5, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that her FAP benefit rate for a household size of two had decreased to \$██████████ per month, effective February 1, 2022 to April 30, 2022 (Exhibit A, pp. 23-28).

4. On [REDACTED] 2022, Petitioner filed a Request for Hearing to dispute the reduction in her FAP benefit rate (Exhibit A, pp. 5-7).

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. MDHHS 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 requested a hearing to dispute the decrease in her FAP benefit rate. On January 5, 2022, MDHHS determined that Petitioner's benefit rate was \$ [REDACTED] per month for a household size of two (Exhibit A, p. 23). However, due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size will receive a supplement to bring their benefit amount to the maximum amount allowed for their group size. ESA Memo 2022-22 (January 2022). If the supplement does not equal or exceed \$95.00, the group will receive additional benefits up to \$95.00, even if this causes them to exceed the maximum benefit amount for the group size. *Id.* While the EA are in effect, Petitioner's FAP benefit amount is the maximum for a household size of two, which was \$ [REDACTED] per month as of October 1, 2021. *Id.*; RFT 260 (October 2021), p. 1. When the EA are no longer in effect, Petitioner will receive her regular benefit amount, which MDHHS determined was \$ [REDACTED] per month.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (July 2020), pp. 1-5. MDHHS 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 (November 2021), p. 1. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3. MDHHS may use past income from the last 30 days if it appears to accurately reflect what is expected to be received during the benefit month. *Id.*, p. 6. To calculate a standard monthly amount, MDHHS multiplies weekly income by 4.3, multiplies biweekly income by 2.15, or adds amounts received twice a month. *Id.*, p. 8. MDHHS counts gross wages in the calculation of earned income. BEM 501 (July 2021), pp. 6-7. For Supplemental Security Insurance (SSI)

income, MDHHS counts the gross benefit amount as unearned income. BEM 503 (April 2021), p. 35.

MDHHS determined that Petitioner's countable income was the total of her earned income and her son's SSI income, which equaled \$[REDACTED] per month. To calculate Petitioner's earned income, MDHHS multiplied Petitioner's gross biweekly earnings from Employer by 2.15, which equaled \$[REDACTED]. Petitioner did not dispute this amount. For the SSI income, MDHHS stated that Petitioner's son received \$[REDACTED] in SSI income monthly and therefore, there was no need to further standardize this amount. The total of the earned income and SSI income equaled \$[REDACTED].

After income is calculated, MDHHS must determine applicable deductions. Because Petitioner's son is disabled, her FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 3.

Petitioner received earned income and was therefore eligible for the 20% earned income deduction, which equaled \$[REDACTED]. No evidence was presented that Petitioner had any dependent care expenses or court ordered child support. MDHHS budgeted the standard deduction based on a group-size of two, which was \$[REDACTED]. RFT 255 (October 2021), p. 1.

Petitioner's group is also entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, pp. 8-9. An SDV group that has verified on-going medical expenses of more than \$35 for an SDV person will receive the Standard Medical Deduction, which is \$165.00. *Id.* If the SDV group member has medical expenses over \$165, the client has the option of verifying their actual medical expenses instead of receiving the Standard Medical Deduction. *Id.* There was no evidence that Petitioner submitted proof of recent medical expenses prior to requesting the hearing. However, if her son incurs medical expenses over \$35.00, Petitioner may report that expense to MDHHS. If MDHHS finds that the medical expense is allowable and is verified, MDHHS should budget the Standard Medical Deduction if the expenses exceed \$35.00 or use the actual amount if the expenses exceed the Standard Medical Deduction and Petitioner chooses to verify the expenses, pursuant to MDHHS policies.

The above deductions were subtracted from Petitioner's monthly income of \$ [REDACTED] to determine Petitioner's Adjusted Gross Income (AGI). The record shows that MDHHS properly determined that Petitioner's AGI was \$ [REDACTED]

Next, MDHHS determined the excess shelter deduction. In calculating the excess shelter deduction of \$0, MDHHS considered Petitioner's verified housing expenses of [REDACTED] and budgeted the \$ [REDACTED] telephone standard. BEM 554, pp. 14-15. MDHHS stated that Petitioner no longer receives the heat and utility standard because her utilities are included in her rent. FAP groups whose heat and electric bills are included in their rent are generally not eligible for the heat and utility standard unless they can show that they are billed for excess payments by their landlord. BEM 554, pp. 18-19.

MDHHS determined Petitioner's total shelter amount by adding together her verified housing expense of \$ [REDACTED] and the telephone standard of \$ [REDACTED], which equaled [REDACTED]. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or [REDACTED] from Petitioner's total shelter amount of [REDACTED] equals a negative amount. Therefore, Petitioner was not eligible for the excess shelter deduction.

Finally, to determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$0.00 from Petitioner's AGI of \$ [REDACTED], which equals [REDACTED]. An individual with a net income of \$ [REDACTED] and a FAP group of two is entitled to receive [REDACTED] per month in FAP benefits. RFT 260 (October 2021), p. 18.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

LJ/tm



Linda Jordan
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

Email Recipients:

MDHHS-Saginaw-Hearings
M. Holden
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First-Class Mail Recipient:

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