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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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████████████████████, MI ██████████

Date Mailed: March 23, 2022  
MOAHR Docket No.: 22-000366  
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, hearing was held via teleconference on March 17, 2022. Petitioner appeared and represented himself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUE**

Did MDHHS properly deny Petitioner's application for Food Assistance Program (FAP) benefits?

**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 for a group-size of five.
2. On January 26, 2021, MDHHS sent Petitioner a Notice of Case Action, indicating that his application for FAP had been denied due to excess income (Exhibit A, pp. 14-18).
3. On ██████████, 2022, Petitioner filed a Request for Hearing to dispute the denial of his application for FAP benefits (Exhibit A, pp. 3-4).

## 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, MDHHS denied Petitioner's application for FAP due to excess income. When determining eligibility for FAP, MDHHS must consider all countable earned and unearned income available to the client. 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, multiples 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 unearned income, such as Retirement, Survivors, Disability Insurance (RSDI) or Supplemental Security Income (SSI), MDHHS counts the gross monthly benefit amount. BEM 503 (April 2021), p. 28, 34.

Here, MDHHS determined that Petitioner's FAP group had a countable income of [REDACTED] based on [REDACTED] in earned income and [REDACTED] unearned disability income. Petitioner submitted paystubs showing that he was receiving earned income of [REDACTED] on a biweekly basis. MDHHS calculated Petitioner's monthly income by multiplying [REDACTED] by 2.15, which equaled [REDACTED]. For Petitioner's wife's income, Petitioner submitted evidence showing that she received earned income from employment on a weekly basis. MDHHS stated that it averaged the weekly earnings and multiplied that number by 4.3, which equaled [REDACTED]. However, the paystubs that MDHHS used were illegible and the dates and amounts read into the record did not support MDHHS' finding that Petitioner's wife earned [REDACTED] per month. Without more information regarding Petitioner's wife's income, it is unclear whether MDHHS properly calculated the group's earned income amount.

After income is calculated, MDHHS must determine applicable deductions. Because Petitioner's son is disabled, his FAP group is considered a Senior/Disabled/Disabled

Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for a deduction for verifiable medical expense exceeding \$35.00. BEM 554, p. 1 Petitioner testified that he pays out-of-pocket expenses for his disabled son's medical care and that he submitted these expenses to MDHHS. MDHHS stated on the record that it had evidence of a \$366.94 medical expense. SDV groups who have monthly medical expenses over \$35.00 are entitled to a Standard Medical Deduction of \$165.00. BEM 554, p. 9. SDV groups also have the option of verifying actual medical expenses if they exceed \$165.00. It is unclear why the medical expense was not included in the budget and MDHHS did not provide any evidence concerning whether the proof of the medical expense was sufficient. Because Petitioner's household includes an SDV member, the SDV member's medical expenses should have been considered when calculating the budget.

MDHHS did not satisfy its burden of showing that it properly calculated Petitioner's FAP benefit rate because it did not adequately explain how the earned income was calculated nor did it provide evidence related to the group's medical expenses. Therefore, 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 failed to show that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

Accordingly, MDHHS's decision is **REVERSED**.

1. Reregister the [REDACTED], 2021 FAP application;
2. Reprocess the [REDACTED], 2021 FAP Application and redetermine Petitioner's eligibility from [REDACTED] 2021 ongoing, requesting additional verifications if necessary;
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for benefits he was eligible to receive but did not from [REDACTED], 2021 ongoing;
4. Notify Petitioner of its decision in writing.

LJ/tm

  

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Linda Jordan  
Administrative Law Judge

