



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 31, 2022
MOAHR Docket No.: 22-000528
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 24, 2022. Petitioner appeared and represented himself. Ms. Harrison, Assistance Payments Worker, 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 November 4, 2021, Petitioner submitted a FAP Redetermination (Exhibit A, pp. 4-8). Petitioner reported that he received Retirement, Survivors, Disability Insurance (RSDI) (Exhibit A, p. 6).
3. On February 7, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that he was approved for FAP benefits at a rate of \$ [REDACTED] per month, effective January 1, 2022 (Exhibit A, pp. 13-17).
4. On February 8, 2022, Petitioner filed a Request for Hearing challenging his FAP benefit rate (Exhibit A, p. 3).

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 filed a hearing request to challenge MDHHS's determination that he was eligible for \$20.00 per month in FAP benefits. 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 would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2021-22 (May 2021). While the EA are in effect, Petitioner's FAP benefit amount is the maximum for a household size of one, which was \$250 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 his 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. For Retirement, Survivors, Disability Insurance (RSDI) income, MDHHS counts the gross benefit amount as unearned income. BEM 503 (April 2021), p. 28.

Here, MDHHS presented evidence that Petitioner receives \$ [REDACTED] in gross RSDI income each month (Exhibit A, p. 21). Petitioner did not dispute that amount. Because the RSDI income is received on a monthly basis, there was no need to further standardize the amount. No evidence of any other income was presented. Thus, MDHHS properly determined that Petitioner's countable income was \$ [REDACTED].

After income is calculated, MDHHS must determine applicable deductions. Because Petitioner 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 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.

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 one, which was \$177.00. RFT 255 (October 2021), p. 1. Petitioner is also entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. No evidence was presented of verifiable medical expenses.

The deductions listed above were then 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 is required to determine the excess shelter deduction. In calculating the excess shelter deduction, MDHHS stated that it considered Petitioner's verified housing expenses of \$830.00¹ and that he was responsible for paying monthly utilities, which entitled him to the heat/utility standard of \$559.00. BEM 554, pp. 14-15. Adding together these amounts, Petitioner's total housing expenses are \$ [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 \$ [REDACTED]. Therefore, Petitioner's excess shelter deduction equals \$ [REDACTED].

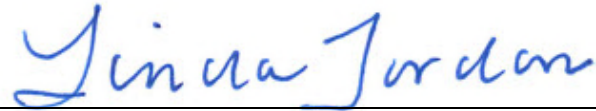
Finally, to determine Petitioner's net income for FAP, MDHHS must subtract the excess shelter deduction of \$ [REDACTED] from Petitioner's AGI of \$ [REDACTED], which equals \$ [REDACTED]. An individual with a net income of \$ [REDACTED] and a FAP group of one is entitled to receive \$ [REDACTED] per month in FAP benefits. RFT 260 (October 2021), p. 20.

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.

¹ MDHHS previously budgeted \$ [REDACTED] per month for Petitioner's verified housing expenses but at the hearing, Petitioner indicated that he submitted verification that his housing expenses were \$ [REDACTED] per month. MDHHS updated the housing expense to \$ [REDACTED]. The update did not change Petitioner's FAP benefit amount.

DECISION AND ORDER

Accordingly, MDHHS's 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-Wayne-19-Hearings
M. Holden
D. Sweeney
C. George
EQADHearings
BSC4
MOAHR

First-Class Mail Recipient:

, MI 