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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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Date Mailed: August 1, 2022
MOAHR Docket No.: 22-002824
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 line on July 28, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Olivette Gordon, manager.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2022, Petitioner received ongoing FAP benefits as a one-person group.
2. As of January 2022, Petitioner received Supplemental Security Income (SSI) of \$██████ per month.
3. As of January 2022, Petitioner had no child support, dependent care, or medical expenses.
4. As of January 2022, Petitioner paid monthly housing expenses of \$204 and was responsible for heating/cooling expenses.

5. On [REDACTED] 2022, MDHHS determined Petitioner to be eligible for \$173 in monthly FAP benefits.
6. As of June 2022, Petitioner reported no income or expense changes to MDHHS.
7. As of June 2022, Petitioner received unrestricted Medicaid due to being an SSI recipient.
8. On June 23, 2022, Petitioner requested a hearing to dispute FAP and Medical Assistance (MA) eligibility.

CONCLUSIONS OF LAW

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute MA eligibility. Petitioner testified that she disputed MA eligibility because she did not have a red, white and blue card and other unclear perks.¹ Petitioner's testimony acknowledged she received unrestricted Medicaid.² Petitioners may request hearings to dispute the following adverse actions to MA benefits: reduction, suspension, termination, restriction in services provided, and/or delay. BAM 600 (March 2021) p. 5. As Petitioner received unrestricted Medicaid and provided no clear evidence of an adverse action to her MA eligibility, her hearing request concerning MA is properly dismissed.

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute FAP eligibility. Exhibit A, p. 3. Petitioner requested a hearing on June 23, 2022. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner was eligible to receive a reduced amount of \$173 in FAP benefits beginning [REDACTED] 2022. Exhibit A, pp. 4-6.

¹ A red, white and blue card was likely a reference to a Medicare card. Medicare is a coverage administered by the Social Security Administration and not within the jurisdiction of an MDHHS administrative hearing.

² MDHHS also testified that Petitioner had no interruption to MA eligibility.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6. Clients may always dispute the current level of FAP eligibility.

Petitioner waited more than 90 days from issuance of written notice to dispute her FAP eligibility. Thus, she is barred from disputing FAP eligibility beginning [REDACTED] 2022: the month when Petitioner's FAP benefits were reduced. However, Petitioner can always dispute ongoing FAP eligibility. Thus, the analysis will address Petitioner's FAP eligibility from the month of her hearing request: June 2022.

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. The notice dated January 26, 2022, included a list of all budget factors. Exhibit A, p. 5. MDHHS also presented FAP budgets listing all relevant factors and calculations. Exhibit A, pp. 8-10. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one.³ Petitioner did not dispute the benefit group size.

It was not disputed that Petitioner received \$[REDACTED] in monthly SSI benefits.⁴ For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. For FAP, Petitioner's total countable income is \$[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-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS additionally considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s). Petitioner was disabled and/or aged.

Petitioner's testimony acknowledged that she did not have child support, dependent care, or medical expenses. Thus, Petitioner's non-shelter expenses total \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$177 (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 (\$177) and countable non-shelter expenses (\$0) from Petitioner's income (\$[REDACTED]) results in an adjusted gross income of \$[REDACTED].

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ The maximum SSI benefit for 2022 is \$841 per month. Presumably, Petitioner additionally receives \$[REDACTED] in averaged monthly state-issued SSI benefits (see BEM 660).

MDHHS credited Petitioner with monthly housing expenses of \$204; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$559. RFT 255 (October 2021) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$763.

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 \$424.

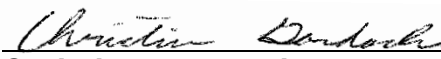
The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$[REDACTED] in net income for Petitioner's group. A chart in policy is used to determine the proper FAP benefit issuance. RFT 260 (October 2021) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for June 2022 is \$177: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to establish an adverse action concerning MA eligibility. Concerning MA eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$177 in FAP benefits beginning [REDACTED] 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

⁵ 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.

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-Electronic Mail :

DHHS
MDHHS-Wayne-57-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] MI [REDACTED]