



GRETCHEN WHITMER
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: November 28, 2022
MOAHR Docket No.: 22-004726
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 November 14, 2022. The Petitioner was represented by Authorized Hearing Representative (AHR) ██████████. The Department of Health and Human Services (MDHHS) was represented by Shan'e Roundtree, Eligibility Specialist.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine his monthly FAP amount?

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 ██████████ 2022, Petitioner applied for FAP for a group size of seven (Exhibit A, pp. 6-18).
2. On October 6, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing him that he was approved for \$143.00 in monthly FAP benefits, effective October 1, 2022 (Exhibit A, pp. 19-24).
3. On October 12, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the calculation of his household budget to determine his monthly FAP amount (Exhibit A, pp. 3-5).

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.

Petitioner requested a hearing regarding the denial of his Medical Assistance (MA) application. AHR testified that they no longer were requesting a hearing regarding Medicaid because Petitioner's case is currently active. AHR withdrew the MA hearing request without objection.

Petitioner disputes the calculation of his household budget to determine the monthly amount of FAP benefits his household receives.

FAP benefit amounts are determined by a client's net income. 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. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 48-51). During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of seven, with no senior (over 60 years old), disabled or disabled veteran (S/D/V) individuals. AHR confirmed this was correct.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5.

MDHHS determined that Petitioner receives \$ [REDACTED] in monthly unearned income from child support payments. Department policy requires that that child support payments Petitioner received in the past three calendar months be averaged unless changes are expected. BEM 505 (October 2022), p. 4. In this case, AHR confirmed that the amounts that MDHHS relied on is correct. AHR confirmed that the household receives no other unearned income. Therefore, MDHHS properly calculated Petitioner's unearned income amount.

MDHHS determines a client's eligibility for program benefits based on the client's actual earned income and/or prospective earned income. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (November 2021) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505 pp. 8-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. MDHHS counts gross wages in the calculation of earned income. BEM 501 (January 2020), pp. 6-7. MDHHS testified that they relied upon the gross income from Petitioner's weekly paystubs from August 15, 2022, August 22, 2022, and August 29, 2022 (see Exhibit A, pp. 41-44). When converted to a standard monthly amount, this calculates to \$[REDACTED]. It appears that MDHHS excluded the paystub from August 22, 2022, due to unusual pay from overtime, in order to reach the amount \$5,398.00 included in the budget. MDHHS has acted in accordance with policy in calculating Petitioner's earned income amount.

The AHR expressed concern regarding the calculation of the earned income deduction, standard deduction, and excess shelter deduction. MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2022) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (S/D/V) member, MDHHS considers the following expenses: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, and a capped excess shelter expense. BEM 554, p. 1. The AHR confirmed that there were no childcare expenses or court ordered child support payments for the household.

MDHHS will reduce the gross countable earned income by 20 percent, known as the earned income deduction. BEM 550 (January 2022), p. 1. Based upon MDHHS' calculation of earned income of \$[REDACTED], MDHHS correctly calculated the earned income deduction to be \$1,080.00.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. MDHHS properly used the standard deduction for a group size of seven of \$258.00. RFT 255 (October 2022), p. 1.

MDHHS calculated Petitioner's housing expenses from the report of \$1,222.00 for a mortgage payment and responsibility for paying utilities. The AHR confirmed that this information was correct. FAP allowable expenses includes: (i) basic shelter expenses such as rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group, property taxes, state and local assessments and insurance on the structure, and home repairs of a home which was substantially damaged or destroyed due to a natural disaster; (ii) the h/u standard or individual utility standards; (iii) utility installation fees charged by the utility provider, excluding deposits;

and (iv) well/septic installation and maintenance. BEM 554, pp. 13-25. Petitioner was credited with a standard heating/utility (h/u) credit of \$620.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an “excess shelter” expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. This results in a negative number; therefore, the excess shelter deduction is \$0.00.

A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 21. Based on Petitioner’s group size and net income, Petitioner’s proper FAP benefit issuance should be \$143.00; the same amount that MDHHS determined.

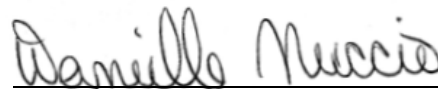
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner’s monthly FAP amount.

DECISION AND ORDER

Petitioner’s October 12, 2022 request for hearing regarding her Medicaid case is **DISMISSED**.

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

DN/mp



Danielle Nuccio
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

Via-Electronic Mail :

DHHS
MDHHS-Macomb-20-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Authorized Hearing Rep.

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