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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: December 9, 2022
MOAHR Docket No.: 22-005107
Agency No.: ██████████
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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 on December 5, 2022 via teleconference. Petitioner appeared and represented herself. Ryan Kennedy, Hearings Facilitator, represented 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 ██████████, 2022, Claimant applied for FAP benefits for a household of three (Exhibit A, pp. 7-8).
2. On October 28, 2022, MDHHS determined that Petitioner was not eligible for FAP benefits due to gross income exceeding the income limit for the program (Exhibit A, pp. 16-17).
3. On ██████████, 2022, Petitioner requested a hearing to dispute the denial of her FAP application.

CONCLUSIONS OF LAW

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 determined that Petitioner was ineligible for FAP benefits because her household exceeded the gross income limit for the program (Exhibit A, pp. 16-17).

At application, MDHHS must determine whether the applicant's household meets the definition of an SDV group. An SDV group is a FAP group that has a senior/disabled/disabled veteran (SDV) member. BEM 550 (January 2022), pp. 1-2. Persons at least 60 years old are considered seniors. *Id.* Persons receiving disability benefits and who are considered permanently disabled under the Social Security Act meet the definition of disabled for the purposes of FAP. *Id.* Persons also meet the definition of disabled if they receive or have been certified and are awaiting their initial payment of Social Security disability benefits or Supplemental Security Income (SSI) based on disability or blindness, even if based on presumptive eligibility. *Id.*

MDHHS testified that Petitioner's household was over the gross income limit for a non-SDV household of three based on the household's earned income. Petitioner disputed the calculation of her household income and testified that she had a disability and that her claim for Retirement, Survivors, Disability Insurance (RSDI) had been approved by the Social Security Administration (SSA). Petitioner further testified that she was not receiving RSDI payments yet and that she would begin receiving RSDI in March 2023. Petitioner also stated that she notified MDHHS of her disability by sending her determination letter from SSA to MDHHS. The determination letter indicated that her disability began in September 2022. Petitioner's testimony regarding her disability status was credible and un rebutted.

Although Petitioner was not yet receiving RSDI, the record shows that she had been certified as disabled by SSA and was awaiting her initial RSDI payment. Under these circumstances, Petitioner's group should have been classified as an SDV group. For SDV groups, MDHHS is required to calculate the household's net income, which considers deductions for dependent care expenses, court ordered child support and arrearages paid to non-household members, and medical expenses for the SDV member that exceed \$35.00. BEM 554 (January 2022), p. 1. Additionally, MDHHS must determine whether the group is eligible for the excess shelter deduction and there is no excess shelter maximum for SDV groups. See BEM 556 (October 2022), p. 6; RFT 255 (October 2022), p. 1.

On the Notice of Case Action, MDHHS determined that Petitioner's group was ineligible for FAP benefits because the household income exceeded the Gross Monthly Income (130%) Limit for a household of three, which is outlined in Column A of RFT 250 (Exhibit

A, pp. 16-17). However, Column A of RFT 250 applies only to FAP groups with no SDV member. RFT 250 (October 2022), p. 1; BEM 556, p. 3. As explained above, Petitioner's group was an SDV group and therefore, the Monthly Gross Income (130%) Limit does not apply. Although MDHHS included a FAP – EDG Net Income Results budget in its Hearing Packet (Exhibit A, pp. 13), it is unclear from the record whether it properly budgeted Petitioner's expenses as an SDV group.

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 did not act in accordance with Department policy when it denied Petitioner's application for FAP benefits.

DECISION AND ORDER

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

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Petitioner's [REDACTED], 2022 FAP Application and redetermine Petitioner's eligibility for FAP as an SDV group, from October 16, 2022 ongoing;
2. Issue supplements to Petitioner for any FAP benefits that she was eligible to receive but did not, from October 16, 2022 ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
Administrative Law Judge

