



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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Date Mailed: February 3, 2023
MOAHR Docket No.: 22-005599
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 January 26, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Ryane McArthur, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of Petitioner's 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 or around [REDACTED] 2022, Petitioner submitted an application for FAP benefits. (Exhibit A, pp.6-11)
2. In connection with the application, Petitioner participated in an application interview, during which she confirmed that her household size is one, that she is employed and earns income biweekly, that she is responsible for annual property taxes of \$1000, and heat and utility expenses. (Exhibit A, pp. 6-18)
3. On or around November 14, 2022, the Department sent Petitioner a Notice of Case Action, advising her that she was approved for \$10 in FAP benefits for the prorated month of October 2022 (October 18, 2022 through October 31, 2022) and effective November 1, 2022, ongoing, she was approved for monthly FAP benefits of \$23. (Exhibit A, pp.24 – 28)

4. On or around November 28, 2022, Petitioner requested a hearing, specifically disputing the amount of her 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. 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, the Department representative testified that after processing Petitioner's application, it was determined that Petitioner was eligible for \$23 in ongoing monthly FAP benefits effective November 1, 2022. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits. (Exhibit A, p. 22-23).

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. The Department 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), pp. 1-2. In prospecting income, the Department 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, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. 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. The Department counts gross wages in the calculation of earned income. BEM 501 (April 2022), pp. 6-7.

The Department determined that Petitioner had gross earned income in the amount of [REDACTED] which consisted of Petitioner's earnings from employment. The Department testified that it relied on information obtained from the earning statements submitted by Petitioner, specifically considering pay received on October 14, 2022, and October 28, 2022, in the gross amount of [REDACTED]. Petitioner confirmed that the income amounts relied upon by the Department were correct and the earning statements were

presented for review. (Exhibit A, pp. 29-30). Upon review, and based on the above referenced policy, the Department properly calculated and prospectively budgeted Petitioner's earned income of [REDACTED]

The deductions to income on the net income budget were also reviewed. BEM 550 (January 2022), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 1-8.

In this case, the Department properly applied an earned income deduction of \$427, based on 20% of the total [REDACTED] earned income calculation. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses; therefore, the budget properly did not include any deduction for dependent care or child support. The Department properly applied a standard deduction of \$193 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2022), p. 1. With respect to the excess shelter deduction, the Department considered Petitioner's responsibility for property taxes in the annual amount of \$1000. The Department testified that when taken monthly, a housing expense for property taxes of \$83.33 monthly was considered. The Department also properly applied the \$620 heat and utility (h/u) standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. Although Petitioner confirmed that she reported during the application interview, and on the application that her property taxes totaled \$1000 annually, Petitioner indicated that this was a rounded estimate, and the amount could be higher. However, based on the information available to the Department, the \$83.33 housing expense was properly determined. Upon review, the Department properly calculated the excess shelter deduction. RFT 255.

After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Based on net income of [REDACTED] Petitioner's one-person household is eligible for \$23. RFT 260 (October 2022), pp. 21.

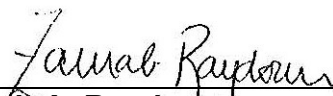
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated the amount of Petitioner's FAP benefits.

At the hearing, Petitioner asserted that she also disputed the Department's previous closure of her FAP case, that occurred on an unverified date. Petitioner's testimony suggested that she previously requested a hearing regarding a case closure that may have been withdrawn. Petitioner's current hearing request from November 28, 2022, was reviewed and clearly indicates that she disputed the amount of her FAP benefits, which the Department properly responded to and presented evidence in support of. The hearing request filed by Petitioner does not indicate that she was also disputing the prior closure of her FAP case and thus, the Department did not prepare any evidence regarding the closure. Petitioner was informed that because her current hearing request was submitted specifically disputing the amount of her FAP allotment, the issue regarding a prior case closure will not be addressed. Petitioner was advised that should she dispute the closure of her FAP case, she was required to submit a new hearing request to have the matter resolved. See BAM 600.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
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
Denise McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
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Interested Parties

BSC4
M Holden
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MOAHR

Via First Class Mail :

Petitioner

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