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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

[REDACTED]
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MI [REDACTED]

Date Mailed: January 13, 2023
MOAHR Docket No.: 22-005615
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 5, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Alexandria Aniol, Assistance Payments Worker.

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. Petitioner was an ongoing recipient of FAP benefits. In connection with a redetermination, Petitioner's eligibility to receive FAP benefits was reviewed. (Exhibit A, pp. 14-18)
2. Petitioner confirmed that her household size is one, that she has earnings from employment, and that she is paid biweekly. Petitioner also confirmed that she is responsible for housing expenses consisting of monthly rent in the amount of \$925. (Exhibit A, pp.14-25)
3. On or around November 15, 2022, the Department sent Petitioner a Notice of Case Action, advising her that effective December 1, 2022, she was approved for FAP benefits in the amount of \$37 monthly. (Exhibit A, pp.7-11)
4. On or around November 30, 2022, Petitioner requested a hearing disputing the amount of her FAP benefits. (Exhibit A, p. 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 redetermination, it was determined that Petitioner was eligible for \$37 in ongoing monthly FAP benefits effective December 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. 30).

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 Work Number, specifically considering pay received on October 21, 2022, in the amount of [REDACTED] and [REDACTED] received by Petitioner on November 4, 2022. Petitioner confirmed that the income amounts relied upon by the Department were correct and the Work Number was presented for review. (Exhibit A, pp. 27-29). 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 \$407, 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 of \$624, the Department considered \$925 as a housing expense, which Petitioner confirmed was the correct amount of her monthly rent. 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. Thus, 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 including the \$407 earned income deduction, the \$193 standard deduction, and the \$624 excess shelter deduction to determine that Petitioner had net income of [REDACTED]. Based on net income of [REDACTED] Petitioner's one-person household is eligible for \$37. RFT 260 (October 2022), pp. 12. A review of Petitioner's case, specifically a benefit summary inquiry, established that Petitioner also received the correct amount of FAP supplements to bring her benefit amount to the maximum for her group size.

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.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
Administrative Law Judge

