



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: January 11, 2023
MOAHR Docket No.: 22-005818
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 January 9, 2023. The Petitioner appeared and was represented by Authorized Hearing Representative (AHR) [REDACTED]. The Department of Health and Human Services (MDHHS) was represented by Ryan Kennedy, Lead Worker acting as Hearing Facilitator.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine his monthly amount of 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 for a group size of one. Petitioner is a senior (over [REDACTED] years old), disabled or disabled veteran (S/D/V) individual.
2. Petitioner receives Retirement, Survivors, Disability Insurance (RSDI) and Supplemental Security Income (SSI).
3. Effective January 1, 2023, Petitioner's monthly RSDI amount increased to [REDACTED] and his monthly SSI amount increased to [REDACTED]
4. Petitioner also receives [REDACTED] per month in State SSI payments (SSP).
5. Petitioner reported paying \$141.00 per month for rent and is responsible for paying for utilities.

6. On December 3, 2022, MDHHS issued a Notice of Case Action to Petitioner informing him that he was eligible for FAP benefits in the amount of \$169.00 monthly for a group size of one, effective January 1, 2023 (Exhibit A, pp. 12-16).
7. On December 12, 2022, MDHHS received a timely submitted request for a hearing from Petitioner disputing the monthly amount of FAP benefits he is eligible to receive (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 to dispute the determination of his monthly FAP amount. Petitioner was approved to receive \$169.00 per month in FAP benefits.¹

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. 9-11). During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. Petitioner reported receiving RSDI, SSI, and SSP in unearned income. RSDI is a federal benefit administered by the Social Security Administration (SSA) that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (January 2023), p. 29. SSI is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability or blindness. MDHHS counts the gross amount of current SSA-issued SSI as

¹ Though Petitioner is only eligible for \$169.00 in monthly FAP benefits, MDHHS has issued the maximum FAP issuance for a client's group size since March 2020. The extra benefits are a result of a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is still appropriate.

unearned income. BEM 503, p. 35. SSP are issued quarterly. MDHHS counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, pp. 36-37. MDHHS calculated [REDACTED] in unearned income, the total of [REDACTED] in RSDI, [REDACTED] in SSI, and [REDACTED] in SSP. Petitioner confirmed these amounts were correct. Therefore, MDHHS properly budgeted Petitioner's income amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554 (October 2022) p. 1.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$193.00. RFT 255 (October 2022), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. Petitioner did not submit for consideration out of pocket medical expenses because his medical expenses were less than \$35.00 per month. Petitioner was advised that any increase in medical expenses in the future may be submitted to MDHHS for their consideration in Petitioner's household budget in the future. Therefore, MDHHS properly counted Petitioner's medical expenses at \$0.00.

Petitioner testified that he does not pay any dependent care or child support expenses. Thus, MDHHS properly counted the group's non-shelter expenses to be \$193.00.

MDHHS calculated Petitioner's housing expenses from his report of \$141.00 in rent and responsibility for paying utilities. 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. Petitioner's excess shelter amount is \$384.00.

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 is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 13. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$169.00; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

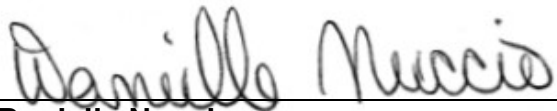
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS acted in

accordance with Department policy when it determined Petitioner to be eligible for \$169.00 in monthly FAP benefits.

DECISION AND ORDER

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

DN/ml



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
Vivian Worden
Macomb County DHHS Mt. Clemens Dist.
44777 Gratiot
Clinton Township, MI 48036
**MDHHS-Macomb-12-
Hearings@michigan.gov**

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

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

Authorized Hearing Rep.

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