

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: February 3, 2023
MOAHR Docket No.: 22-006127
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Veronica Rumschlag, Eligibility Specialist (ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-45.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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 [REDACTED] 2022, Petitioner applied for FAP. Petitioner reported his rent was \$600.00 and utilities were included. Petitioner reported income of \$800.00 from disability benefits. (Exhibit A, pp. 5-15)
2. On December 21, 2022, an interview was completed with Petitioner. It was noted that Petitioner was receiving \$[REDACTED] of Retirement, Survivors, and Disability Insurance (RS defense) benefits and \$[REDACTED] of Supplemental Security Income (SSI) benefits per month. Petitioner reported he did not have medical expenses over \$35.00 per month. (Exhibit A, pp. 17-24)

3. On December 21, 2022, a Notice of Case Action was issued to Petitioner approving FAP for in the amount of \$89.00 per month for the period of December 14, 2022, through December 31, 2022, and in the amount of \$121.00 per month for the period of January 1, 2023, through November 30, 2024. (Exhibit A, pp. 32-36)
4. On December 22, 2022, Petitioner verbally requested a hearing contesting the amount of his monthly FAP allotment. (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 calculating the FAP budget, the Department considers unearned income, which includes Social Security Administration (SSA) issued benefits such as Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) as well as the state SSI payment. BEM 503, October 1, 2022, pp. 29-31 and 35-37. The Department counts the gross benefit amount as unearned income. BEM 503, pp. 29 and 35.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2022), p. 13. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low-Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, p. 16. FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22. Verified allowable medical expenses

can also be considered for senior/disabled/veteran (SDV) FAP group members. An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction. BEM 554 pp. 8-13.

In this case, Petitioner applied for FAP on [REDACTED] 2022. Petitioner reported his rent was \$600.00 and utilities were included. Petitioner reported income of \$800.00 from disability benefits. (Exhibit A, pp. 5-15).

On December 21, 2022, an interview was completed with Petitioner. It was noted that Petitioner was receiving \$[REDACTED] of RSDI benefits and \$[REDACTED] of SSI benefits per month. Petitioner reported he did not have medical expenses over \$35.00 per month. (Exhibit A, pp. 17-24). The Department verified the RSDI and SSI income from a data match with SSA. (Exhibit A, p. 40; ES Testimony)

On December 21, 2022, a Notice of Case Action was issued to Petitioner approving FAP for in the amount of \$89.00 for the period of December 14, 2022, through December 31, 2022, and in the amount of \$121.00 per month for the period of January 1, 2023, through November 30, 2024. (Exhibit A, pp. 32-36).

Petitioner contested the amount of his monthly FAP benefits because he used to receive a higher amount. Petitioner asserted that nothing changed on his part. (Petitioner Testimony) The ES explained that Petitioner previously qualified for the full h/u standard based on receiving a home heating credit. (Exhibit A, p. 43; ES Testimony) However, on the December 14, 2022, Assistance Application, Petitioner reported that he had not received more than \$20.00 in State Emergency Relief energy payments, Michigan Energy Assistance Program payments, or the Home Heating Credit in the last 12 months. (Exhibit A, p. 15) Petitioner no longer qualified for the full h/u standard to be included in his shelter expenses because all utilities are included in his rent and he had not received more than \$20.00 in State Emergency Relief energy payments, Michigan Energy Assistance Program payments, or the Home Heating Credit in the last 12 months. This would likely have been the most significant change in the FAP budget calculation from when Petitioner previously received a higher amount.

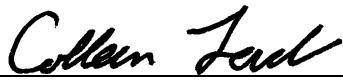
In review of the evidence, the Department properly considered the verified current income from SSI and RSDI benefits, as well as the state supplement to the SSI Payment. The Department properly included a housing expense of \$600.00 based on Petitioner's rent and could not include the full h/u standard or any individual utility standards. (Exhibit A, pp. 26-31; ES Testimony) Accordingly, the Department's determinization of Petitioner's eligibility for FAP for the December 14, 2022, application is upheld.

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 eligibility for FAP based on the available information.

DECISION AND ORDER

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

CL/nr



Colleen Lack
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
Kimberly Kornoelje
Kent County DHHS
121 Franklin SE
Grand Rapids, MI 49507
MDHHS-Kent-
Hearings@michigan.gov

Interested Parties
Kent County DHHS
BSC3
M. Holden
D. Sweeney
MOAHR

Via-First Class Mail :

Petitioner

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