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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 19, 2023
MOAHR Docket No.: 23-001474
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on April 12, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Candice Benns, hearing liaison.

ISSUE

The issue is whether MDHHS properly denied 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. From August through October 2022, Petitioner received the following respective monthly child support: \$████████, \$████████, and \$█████.
2. On ██████████ 2022, Petitioner applied for FAP benefits and reported a household of four persons.
3. As of November 2022, two children of Petitioner each received federally-issued Supplemental Security Income (SSI) of \$████████ and state-issued SSI averaging \$████ per month.
4. As of November 2022, Petitioner had no child support or dependent care expenses. Petitioner had \$25 in monthly medical expenses.

5. As of November 2022, Petitioner reported to MDHHS a responsibility for heating/cooling expenses and monthly housing expenses of \$1,275.
6. On November 22, 2022, MDHHS denied Petitioner's application for FAP benefits due to excess net income.
7. On January 10, 2023, Petitioner requested a hearing to dispute the denial of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner requested a hearing to dispute a denial of FAP benefits. Exhibit A, pp. 3-4. Petitioner applied for FAP benefits on [REDACTED] 2022. Exhibit A, pp. 6-13. A Notice of Case Action dated November 22, 2022, stated that Petitioner's application was denied due to excess net income. Exhibit A, pp. 28-31.

Net income determines a group's FAP eligibility. Net income for FAP benefits is based on a client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget listing most budget calculations. Exhibit A, p. 26. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of four persons. Petitioner did not dispute the benefit group size.¹

MDHHS presented documents listing Petitioner's child support income from August through October 2022. Exhibit B, pp. 1-2 and Exhibit C, p. 1. The documents verified the following monthly child support income: \$[REDACTED], \$[REDACTED], and \$[REDACTED]. For child support income, MDHHS is to use the average of child support payments received in the past three calendar months unless changes are expected. BEM 505 (November 2021) p. 4. Averaging the three months of child support immediately before Petitioner's application month of November 2022 results in a countable monthly child support income of \$[REDACTED] (dropping cents).

Petitioner contended that MDHHS's child support income did not accurately reflect her child support income. To support the contention, Petitioner submitted screenshots listing dates and amounts of child support income from August through October 2022. Exhibit

¹ See BEM 212 for policies on determining group size for FAP benefits.

1, pp. 1-4. Petitioner's screenshots did not include payment dates listed on MDHHS's documents.

MDHHS's child support documentation was obtained through a data exchange with the Michigan Child Support Enforcement System (MiCSES).² Such documentation is inherently reliable and not easily manipulated. Screenshots of payment dates from an unknown source is deemed to be less reliable than income documents obtained from a state agency. The evidence established Petitioner received monthly child support income of \$[REDACTED].

It was not disputed that Petitioner received weekly disability income of \$[REDACTED] from an employer. Gross employment disability payments are countable in determining FAP eligibility.³ BEM 501 (January 2023) p. 33. Stable or fluctuating weekly employment income is converted to a monthly income by multiplying the average income by 4.3. *Id.* Multiplying Petitioner's weekly disability income of \$[REDACTED] by 4.3 results in a monthly disability income of \$[REDACTED].

It was also not disputed that two of Petitioner's children received SSI. For FAP benefits, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. Documents from the Social Security Administration listed \$[REDACTED] in SSI as of December 2022 for each of Petitioner's two children.⁴ Exhibit A, pp. 16-21. Petitioner's testimony acknowledged that each child also received approximately \$[REDACTED] in state-SSI payments every quarter (an average of \$[REDACTED] per month). The evidence established SSI benefits totaling \$[REDACTED].

Adding Petitioner's group's monthly child support (\$[REDACTED]), disability payments (\$[REDACTED]), and SSI (\$[REDACTED]) results in a total income of \$[REDACTED] (dropping cents). MDHHS factored a total income of \$[REDACTED]. For purposes of this decision, the lower monthly income of \$[REDACTED] will be accepted as accurate.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS additionally considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s). It was not disputed that Petitioner was disabled and/or aged.

Petitioner's testimony acknowledged having no child support or dependent care expenses. Petitioner's application reported to MDHHS monthly medical expenses of \$25. Exhibit A, p. 11. Applying the standard \$35 medical expense copayment to Petitioner's reported medical expenses results in \$0 countable medical expenses.

² Under BEM 554, MDHHS has access to child support income through MiCSES.

³ Such income is described as sick/accident insurance payments in MDHHS policy (see BEM 503).

⁴ Petitioner alleged each child received SSI of \$541 but provided no corroborating evidence.

Petitioner's FAP benefit group size justifies a standard deduction of \$193 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$193) and countable non-shelter expenses (\$0) from Petitioner's countable income (\$██████) results in an adjusted gross income of \$██████.

Petitioner testified that she paid \$1,275 in housing expenses; for purposes of this decision, Petitioner's testimony will be accepted as fact. MDHHS testified it credited Petitioner with a standard heating/utility (h/u) credit of \$624. RFT 255 (October 2022) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁵ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$1,899.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$319.

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 \$██████ in net income for Petitioner's group. The net income limit for Petitioner's group size is \$2,313. RFT 250 (October 2022) p. 1. Because Petitioner's group's net income exceeds the net income limit, MDHHS properly denied Petitioner's application due to excess net income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's FAP application dated ██████████ 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

⁵ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

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
MDHHS-Wayne-41-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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