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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

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Date Mailed: May 15, 2023
MOAHR Docket No.: 23-002045
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 11, 2023 via teleconference. Petitioner appeared and represented himself. Danielle Moton, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 for a household of three, including Farrah Adel (Daughter).
2. On March 31, 2023, MDHHS sent Petitioner a Notice of Case Action, indicating that he was approved for \$126.00 in monthly FAP benefits for a household of three, beginning April 1, 2023 (Exhibit A, p. 7). Petitioner's FAP benefit rate was based on \$2,506.00 in unearned income (Exhibit A, p. 8).
3. On April 12, 2023, Petitioner requested a hearing to dispute the reduction in his FAP benefit rate (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. MDHHS 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, MDHHS decreased Petitioner's FAP benefit rate and determined that his household was eligible for \$126.00 in FAP benefits per month. Petitioner disputed the calculation of Daughter's Unemployment Compensation Benefits (UCB).

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable earned and unearned income. BEM 500 (April 2022), pp. 1-5. MDHHS 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 (October 2022), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. MDHHS converts stable and fluctuating income received more often than monthly into a standard monthly amount by multiplying weekly income by 4.3, multiplying biweekly income by 2.15, or adding amounts received twice a month. *Id.* For Retirement, Survivors, Disability Insurance (RSDI) income and UCB income, MDHHS counts the gross amounts as unearned income. BEM 503 (January 2023), pp. 29, 38.

MDHHS determined that Petitioner's monthly unearned income was based on \$950.00 that he receives in RSDI and Daughter's UCB payments. Petitioner did not dispute the amount MDHHS budgeted for RSDI. Regarding UCB income, MDHHS testified that it calculated a standardized monthly amount by multiplying Daughter's biweekly payment of \$724.00 by 2.15, which equals \$1,556.60 per month. Petitioner disputed that calculation of Daughter's UCB income and stated that it should have added the amounts together instead of multiplying the biweekly amount by 2.15. However, MDHHS introduced evidence sufficient to draw the conclusion that Daughter receives UCB on a biweekly basis and not twice a month. MDHHS used the proper formula which allows for fluctuations due to the number of pays in a month. See BEM 505, p. 9. MDHHS uses this formula to account for the months in which Daughter would receive three biweekly payments, instead of two. Therefore, MDHHS properly determined that Petitioner's unearned income was \$2,506.00 based on the RSDI and UCB income.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, court-ordered child support or verified medical expenses. MDHHS budgeted the standard deduction for a household of three, which was \$193.00. RFT 255 (February 2023), p. 1. To calculate Petitioner's Adjusted Gross Income (AGI), the standard deduction of \$193.00 was subtracted from the countable income of \$2,506.00, which equaled \$2,313.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$268.00, MDHHS considered Petitioner's verified housing expenses of \$800.00 and budgeted the heat and utility standard of \$624.00. BEM 554, pp. 14-15. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$800.00 and the heat/utility standard of \$624.00, which equaled \$1,424.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$1,156.50, from Petitioner's total shelter amount of \$1,424.00 equals \$268.00 (dropping the cents). Petitioner did not dispute the amounts used to determine his excess shelter deduction. Therefore, MDHHS properly determined that Petitioner's excess shelter deduction was \$268.00.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$268.00 from Petitioner's AGI of \$2,313.00, which equaled \$2,045.00. A household of three with a net income of \$2,045.00 is entitled to receive \$126.00 per month in FAP benefits. RFT 260 (October 2022), p. 29.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

LJ/tm



Linda Jordan
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

