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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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Date Mailed: July 26, 2023
MOAHR Docket No.: 23-003507
Agency No.: 112807912
Petitioner: Hasan Fadhill

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 July 19, 2023 via teleconference. Samir Mahmoud appeared on behalf of Petitioner as his Authorized Hearing Representative (AHR). Valarie Foley, Hearings Facilitator, 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.
2. On December 2, 2022, MDHHS issued a Notice of Case Action indicating that Petitioner's FAP benefit rate decreased to \$101.00 per month for a household of one, beginning January 1, 2023 (Exhibit A, p. 7). The decrease in the FAP benefit rate was due to an increase in Petitioner's unearned income (Exhibit A, p. 8).
3. On June 20, 2023, AHR requested a hearing to challenge Petitioner's FAP benefit rate (Exhibit A, p. 3).

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, AHR filed a hearing request to challenge Petitioner's FAP benefit rate. FAP beneficiaries have the right to contest an MDHHS decision that affects their eligibility or Food Assistance Program (FAP) benefits levels whenever they believe that the decision is incorrect. BAM 600 (March 2021), p. 5. AHR also objected to the loss of supplemental COVID-19 benefits.¹ However, there is no right to a hearing on this issue. 7 CFR 271.7(f). BAM 600, p. 8.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the client must be considered. 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. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3. For Supplemental Security Income (SSI), MDHHS counts the gross benefit amount as unearned income. BEM 503 (January 2023), p. 35.

Here, MDHHS presented evidence that Petitioner receives \$914.00 per month in Supplemental Security Income (SSI) (Exhibit A, p. 10). SSI is a benefit administered by the Social Security Administration (SSA). BEM 503, p. 35. Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds, known as the State SSI Payment (SSP). *Id.* The record shows that MDHHS budgeted \$928.00 for Petitioner's unearned income, which represents his monthly SSI and SSP benefits (Exhibit A, p. 8). AHR did not dispute these amounts. Because the payments are

¹ Due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2020-15 (March 2020; updated December 2020). The State of Michigan issued EA from April 2020 to February 2023. ESA Memo 2023-10 (February 2023). In addition, beginning in May 2021, MDHHS began issuing a minimum \$95 supplement to all FAP households, including households that were already receiving the maximum allotment for their household size. ESA Memo 2021-22 (May 2021).

received on a monthly basis, there was no need to further standardize Petitioner's income. No evidence of earned income was presented. Thus, MDHHS properly determined Petitioner's countable income as \$928.00 per month.

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 (January 2023), p. 3.

No evidence was presented that Petitioner had any earned income, dependent care expenses or court ordered child support. MDHHS budgeted the standard deduction based on a group-size of one, which was \$193.00. RFT 255 (February 2023), p. 1. Petitioner is also entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. No evidence was presented of verified medical expenses.

To determine Petitioner's Adjusted Gross Income (AGI), MDHHS is required to subtract the deductions above from Petitioner's countable income of \$928.00. Subtracting \$193.00 from \$928.00 equals \$735.00. Thus, Petitioner's AGI was \$735.00.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction, MDHHS budgeted Petitioner's verified housing expenses of \$475.00 and the telephone standard deduction of \$30.00. RFT 255, p. 1. Adding these amounts together, Petitioner's total housing expenses equaled \$505.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$367.00, from Petitioner's total shelter amount of \$505.00 equals \$138.00. Therefore, Petitioner's excess shelter deduction equals \$138.00.

Finally, to determine Petitioner's net income for FAP, MDHHS must subtract the excess shelter deduction of \$138.00 from Petitioner's AGI of \$735.00, which equals \$597.00. An individual with a net income of \$597.00 and a FAP group of one is entitled to receive \$101.00 per month in FAP benefits. RFT 260 (October 2022), p. 9.

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 determined 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

Via-Electronic Mail :

DHHS

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