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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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██████████, MI ██████████

Date Mailed: July 31, 2023
MOAHR Docket No.: 23-003656
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on July 27, 2023, from Lansing, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR) ██████████ ██████████. The Department was represented by Haysem Hosny.

ISSUE

Did the Department of Health and Human Services (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 ██████ ██████ 2023, the Department received Petitioner's application for Food Assistance Program (FAP) benefits as a household of one. Exhibit A, pp 8-20.
2. Petitioner reported that he is employed on his ██████ ██████ 2023, application form. Exhibit A, p 13.
3. Petitioner reported that he received Freedom to Work medical benefits on his ██████ ██████ 2023, application form.
4. Petitioner reported that he is disabled on his ██████ ██████ 2023, application form. Exhibit A, p 11.
5. Department records show that Petitioner's representative reported that she pays Petitioner's housing expenses obligation directly to a condominium association. Exhibit A, p 25.

6. Petitioner received monthly earned income from employment in the gross bi-weekly amounts of \$██████ on May 5, 2023, and \$██████ on May 19, 2023. Exhibit A, pp 28-31.
7. On June 16, 2023, the Department notified Petitioner that he was eligible for a \$23 monthly allotment of Food Assistance Program (FAP) benefits effective July 1, 2023. Exhibit A, pp 34-38.
8. On June 27, 2023, the Department received Petitioner's request for a hearing protesting the size of his allotment of Food Assistance Program (FAP) benefits. Exhibit A, pp 4-6.

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) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned income. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (April 1, 2022), pp 1-17.

Petitioner applied for FAP benefits as a household of one and it was not disputed that Petitioner is disabled. Petitioner's representative credibly testified that Petitioner received benefits from the Social Security Administration (SSA) in the gross monthly amount of \$1,192.

Petitioner reported to the Department that he is employed. Petitioner provided copies of two bi-weekly paycheck showing that he received earned income in the gross bi-weekly amounts of \$██████ on May 5, 2023, and \$██████ on May 19, 2023.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

The Department properly determined that Petitioner's prospective gross monthly income is \$1,166 as directed by BEM 505. Should Petitioner's earnings change in the future, his eligibility for ongoing FAP benefits will also change.

Petitioner's total gross monthly earnings of \$[REDACTED] was determined from the total of his earned income and his Social Security benefits. Under most circumstances, a household of one with gross monthly earnings exceeding \$[REDACTED] is not eligible for any FAP benefits, but this limit does not apply to households with a disabled household member. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2022), p 1.

FAP recipients are allowed deductions from their income for certain expenses identified in BEM 554, FAP Allowable Expenses and Expense Budgeting. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (April 1, 2023), pp 1-34.

However, the Department will not allow any expense if the entire expense is directly paid by someone outside of the FAP benefit group. BEM 554, p 2.

In this case, Petitioner's representative credibly testified that she intends to assist Petitioner with his efforts at living independently, but concedes that at this time, she is paying Petitioner's housing expenses directly. Based on the circumstances in May of 2023, the Department properly excluded Petitioner's housing expenses as directed by BEM 554.

The hearing record supports a finding that Petitioner provided verification that he paid medical expenses exceeding \$35 and the Department credited him with the \$165 monthly standard medical deduction. BEM 554, p 9.

Petitioner has an adjusted gross income of \$[REDACTED] which was determined by reducing his total gross income by the \$165 standard deduction, a 20% earned income deduction, and his \$165 medical deduction. Petitioner is not entitled to a deduction for shelter expenses unless his countable shelter expenses exceed 50% of his adjusted gross income. It is not clear from the hearing record whether Petitioner is entitled to a deduction for utilities, but the standard heat and utility deduction is less than 50% of Petitioner's adjusted gross income.

For a household with no shelter deduction, the net monthly income is the same as the adjusted gross income. A household of one with a net income of \$[REDACTED] is entitled to a \$23 monthly allotment of FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 260 (October 1, 2022), p 25.

Petitioner's representative did not dispute that she is paying Petitioner's housing expenses directly and the representative testified that she is loaning these funds to Petitioner.

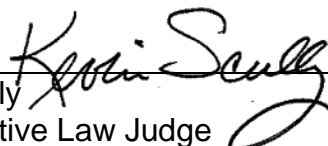
However, no evidence was presented on the record that this loan was reported during the required eligibility interview, and no evidence of the loan was presented during the administrative hearing.

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 the Food Assistance Program (FAP) as of July 1, 2023.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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

Dawn Tromontine
Macomb County DHHS Sterling
Heights Dist.
41227 Mound Rd.
Sterling Heights, MI 48314
**MDHHS-Macomb-36-
Hearings@michigan.gov**

Interested Parties

Macomb 36 County DHHS
BSC4
M. Holden
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MOAHR

Via-First Class Mail :

Petitioner

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Authorized Hearing Rep.

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