



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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ACTING DIRECTOR

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Date Mailed: October 3, 2023
MOAHR Docket No.: 23-005373
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 September 28, 2023. Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Melissa Stanley, Hearing Facilitator.

ISSUES

1. Did MDHHS properly determine Petitioner's monthly amount of Food Assistance Program (FAP) benefits?
2. Did MDHHS act in accordance with policy in denying Petitioner's August 21, 2023 State Emergency Relief (SER) application?
3. Did Petitioner properly request a hearing regarding MDHHS' actions in his FAP and SER cases?

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 is an ongoing recipient of FAP for a group size of one, receiving \$ ██████████ in monthly FAP benefits for the certification period April 1, 2023 through March 31, 2024. Petitioner is a senior (over 60 years old), disabled or disabled veteran (S/D/V) individual (Exhibit A, pp. 22-26).

2. On August 21, 2023, Petitioner applied for SER for electricity and moving expenses (Exhibit A, pp. 7-12).
3. On August 22, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that he submit verification of need for relocation, such as a court-ordered eviction, by August 29, 2023 (Exhibit A, pp. 13-14).
4. On August 29, 2023, Petitioner submitted to MDHHS that he paid an application fee for [REDACTED] (Exhibit A, p. 15).
5. On August 29, 2023, Petitioner submitted a hearing request to dispute the monthly amount of FAP benefits that he receives and regarding his SER application (Exhibit A, pp. 3-5).
6. On September 1, 2023, MDHHS issued a SER Decision Notice to Petitioner, informing him that his SER application was denied for failure to provide verification of need for SER relocation services (Exhibit A, pp. 16-18).

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).

Food Assistance Program (FAP)

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.

Petitioner submitted a hearing request to dispute the monthly amount of FAP benefits that he is currently receiving. MDHHS raised the issue of a lack of Petitioner signature on the hearing request. Requests for a hearing must be made in writing and signed by one of the persons listed above. The request must bear a signature. Faxes or photocopies of signatures are acceptable. Michigan Office of Administrative Hearings and Rules (MOAHR) will deny requests signed by unauthorized persons and requests without signatures. For FAP only, a hearing request may be written or oral. BAM 600 (March 2021), p. 2. Upon review, Petitioner did sign his name when stating his request for hearing but did not sign in the designated signature box (see Exhibit A, p. 4). Petitioner testified that he suffers from a traumatic brain injury and that he has difficulty with forms. Given that Petitioner did sign on the request for hearing from (albeit not in

the designated area) and that hearing requests regarding FAP cases may be verbal, deference will be given, and Petitioner's hearing request will be reviewed.

Additionally, MDHHS raised the issue that Petitioner's hearing request regarding FAP was made over 90 days after the decision notice. On May 18, 2023, MDHHS issued a Notice of Case Action to inform Petitioner that he was approved to receive \$[REDACTED] in monthly FAP benefits for the certification period April 1, 2023 through March 31, 2024. On August 29, 2023, Petitioner submitted a hearing request regarding the current amount of his FAP benefits. Per BAM 600, the client has 90 calendar days from the date of the written notice of case action to request a hearing. However, for FAP cases only, the client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600, pp. 6-7. Since Petitioner disputes the amount of FAP benefits that he is receiving, his request may be made at any time. Therefore, Petitioner's current FAP benefit amount will be reviewed.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 27-30). During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. Petitioner reported receiving both RSDI. RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the gross benefit amount of RSDI as unearned income. BEM 503 (January 2023), p. 29. Petitioner confirmed that he receives \$1,211.00 in monthly gross unearned income. Petitioner reported no current earned income or self-employment income. Therefore, MDHHS properly calculated Petitioner's income amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (April 2023) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, a capped excess shelter expense, the medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$193.00. RFT 255 (October 2022), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the

SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. Petitioner confirmed that he did not submit for consideration out of pocket medical expenses. Petitioner was advised that he may submit medical expenses for consideration into his budget in the future. Since at the time of its determination Petitioner had not submitted any expenses, MDHHS properly calculated medical expenses to be \$0.00.

MDHHS calculated Petitioner's housing expenses from his report of \$360.00 in rent and responsibility for paying utilities. Petitioner confirmed that this information is correct. Petitioner was credited with a standard heating/utility (h/u) credit of \$624.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. Petitioner's excess shelter amount is \$475.00.

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 \$543.00 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 8. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$██████; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility. Petitioner was advised that if any of his expenses have changed, he can update MDHHS at any time and his eligibility will be reviewed.

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 MDHHS acted in accordance with Department policy when it determined Petitioner to be eligible for \$118.00 in monthly FAP benefits.

State Emergency Relief (SER)

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Clients have the right to contest a Michigan Department of Health and Human Services (MDHHS) decision affecting eligibility or benefit levels whenever they believe the *decision* is incorrect. MDHHS provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. BAM 600, p. 1 (Emphasis Added).

In this case, MDHHS received a hearing request from Petitioner on August 29, 2023 regarding his application for SER. MDHHS did not issue a decision regarding Petitioner's SER application until September 1, 2023. Upon review, Department policy requires that MDHHS provides an administrative hearing to review its decision and determine its appropriateness in accordance to policy. In this case, no decision was

made by MDHHS at the time of the hearing request. Therefore, Petitioner's request for hearing regarding the August 21, 2023 SER application is **DISMISSED** for lack of jurisdiction.

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 monthly FAP amount.

DECISION AND ORDER

Accordingly, the Department's decision regarding Petitioner's FAP case is **AFFIRMED**.

Petitioner's hearing request for SER is **DISMISSED**.



DN/tm

Danielle Nuccio
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
Elisa Daly
Saginaw County DHHS
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties

M. Holden
D. Sweeney
J. McLaughlin
E. Holzhausen
BSC2

Via-First Class Mail :

Petitioner

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