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GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-005522
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 October 11, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Khaleah Cameron, specialist.

ISSUE

The issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

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 [REDACTED] 2023, Petitioner applied for FAP benefits and reported a household with no other persons.
2. On August 23, 2023, during an application interview, Petitioner reported residency with [REDACTED] Petitioner's spouse (hereinafter, "Spouse").
3. As of August 2023, Spouse received \$[REDACTED] in gross monthly Retirement, Survivors, Disability Insurance (RSDI). Spouse had a monthly Medicare premium cost of \$164.90.
4. As of August 2023, Petitioner had no child support or dependent care expenses.

5. On August 23, 2023, Petitioner submitted to MDHHS documentation listing medical supply expenses totaling \$136.90 and medical prescription expenses totaling \$667.76.
6. As of June 2023, Petitioner had a responsibility for heating/cooling expenses and monthly housing expenses of \$208.33.
7. On August 24, 2023, MDHHS determined Petitioner to be eligible for \$23 in monthly FAP benefits beginning July 2023.
8. On September 7, 2023, Petitioner requested a hearing to dispute FAP eligibility beginning August 2023.

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. MA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute FAP eligibility. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on July 27, 2023. Exhibit A, pp. 7-13. A Notice of Case Action dated August 24, 2023, stated that Petitioner was eligible to receive \$23 in FAP benefits beginning August 2023.¹ Exhibit A, pp. 21-26.

FAP benefit amounts are determined by a client's net income. A client's net income is based on group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income MDHHS presented budget documents listing all relevant FAP factors and calculations. Exhibit A, pp. 16-19. The notice dated August 24, 2023, also included a summary of all budget factors. Exhibit A, p. 22. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner's application reported only Petitioner as a household member. However, it was not disputed that Petitioner reported to MDHHS on August 23, 2023, during an application interview, that Spouse resided with Petitioner. Petitioner testified that she did not report Spouse on her application because he was in a nursing home from approximately June 26 to October 7, 2023. Petitioner's testimony is questionable because she admitted not informing her specialist that Spouse had been in a nursing

¹ MDHHS prorates benefits in the application month based on the date of application (see BAM 115). Presumably, Petitioner was ineligible for \$0 benefits in July 2023 after prorating the 5 days in July that Petitioner was eligible for FAP benefits.

home when interviewed in August 2023.² Given the evidence, Petitioner's benefit group size is two persons.³

It was not disputed that Spouse received \$ [REDACTED] in gross monthly RSDI benefits. For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For purposes of FAP, Petitioner's group's countable RSDI is \$ [REDACTED] (dropping cents).

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 Spouse was a disabled individual.

Petitioner submitted to MDHHS a handwritten list of monthly medical expenses on August 24, 2023. Petitioner's list included medical supply expenses totaling \$136.90 and medical prescription expenses totaling \$667.76. MDHHS thought it budgeted all of Petitioner's reported expenses, but its budget documentation verified only the medical supplies and a Medicare premium of \$164.90 were factored. Adding the expenses and applying a \$35 copayment resulted in \$267 in countable expenses.

The evidence established that MDHHS did not consider Petitioner's \$667.76 in reported expenses. It is premature to state that MDHHS should have budgeted Petitioner's prescription costs as medical expenses. Medical expenses must be verified at application. BEM 554 (October 2022) p. 13. No evidence suggested that MDHHS attempted to verify Petitioner's reported expenses. Thus, Petitioner is entitled to a reprocessing of the application with an opportunity to verify medical expenses. For purposes of simplifying the remaining budget analysis only, it will be accepted that \$267 in countable medical expenses was proper.

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 (\$267) from the group's countable income (\$ [REDACTED]) results in an adjusted gross income of \$ [REDACTED].

MDHHS budgeted housing expenses of \$208.33 for Petitioner; Petitioner did not dispute the housing expense amount. MDHHS credited Petitioner with a standard heating/utility

² Petitioner sent a document to MDHHS on September 7, 2023, indicating that Spouse was a resident in a nursing center as of September 6, 2023, the date of the letter. However, the letter was silent as to Spouse's residency before and after the date letter's date,

³ See BEM 212 for policies on determining group size for FAP benefits.

(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.⁴ Adding Petitioner's housing expenses and utility credits results in total shelter expenses of \$832 (dropping cents).

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 expenses are \$0.

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 \$[REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁵ RFT 260 (October 2022) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for August 2023 is \$23: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning July 2023 other than the failure to consider Petitioner's reported medical expenses.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's FAP eligibility beginning July 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP application dated July 27, 2023, subject to the finding that Petitioner reported \$667.76 in monthly prescription costs on August 24, 2023, and that MDHHS failed to request verification of the costs; and
- (2) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki

Administrative Law Judge

⁴ 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.

⁵ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

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
Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
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Interested Parties
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M. Holden
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Via-First Class Mail :

Petitioner
[REDACTED]
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