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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], MI [REDACTED]

Date Mailed: November 13, 2023
MOAHR Docket No.: 23-006617
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 November 6, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, hearings facilitator.

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. As of August 2023, Petitioner received FAP benefits in a benefit group of one person and was neither 60 years of age, disabled, nor a disabled veteran.
2. As of August 2023, Petitioner had \$[REDACTED] in monthly self-employment income.
3. In August 2023, Petitioner received the following biweekly gross employment income: \$616.00, \$588.50, and \$610.50.
4. As of August 2023, Petitioner had no child support, medical, or dependent care expenses.

5. As of August 2023, Petitioner had a responsibility for telephone costs and no other utility obligations or housing expenses.
6. On September 28, 2023, MDHHS terminated Petitioner's FAP eligibility beginning October 2023.
7. On October 4, 2023, Petitioner requested a hearing to dispute the amount of FAP benefits.
8. On an unspecified date, MDHHS determined Petitioner to be eligible for \$36 in monthly FAP benefits beginning October 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 a termination of FAP benefits. Exhibit A, pp. 3-4. As of the date of Petitioner's hearing request, MDHHS had terminated Petitioner's FAP eligibility. It was not disputed that MDHHS subsequently reversed the termination and approved Petitioner for \$36 in monthly FAP benefits beginning October 2023; the updated determination will be the subject of the analysis.

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 is based on group size, countable monthly income, and relevant monthly expenses. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner testified he sought FAP benefits only for himself. MDHHS accordingly factored a benefit group of one person.¹

Petitioner was employed and received ongoing wages. Generally, MDHHS is to count gross wages.² In August 2023, Petitioner had three biweekly pay dates with gross income totaling \$██████ MDHHS converts stable or fluctuating biweekly income to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. Multiplying Petitioner's average biweekly gross wages by 2.15 results in a monthly employment income of \$1,300.

¹ See BEM 212 for policies on determining group size for FAP benefits.

² Exceptions to counting gross wages include student earnings, striker benefits, census worker pay, flexible benefits, strikers worker pay, and earned income tax credits.

It was not disputed that Petitioner received \$8 in monthly self-employment income.³ Adding Petitioner's self-employment income and wages results in a total income of \$[REDACTED]. MDHHS issues a 20% credit for timely reported employment income which results in a countable income of \$[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).

Petitioner was not an SDV group member; thus, medical expenses are not countable. Petitioner alleged no dependent care or child support expenses. Petitioner's non-shelter expenses are \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (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 (\$198) and countable non-shelter expenses (\$0) from the group's countable income (\$1,046) results in an adjusted gross income of \$[REDACTED].

Petitioner acknowledged he lived with his parents and had no housing expenses. Petitioner also acknowledged having no utility obligations other than a telephone. MDHHS credited Petitioner with a standard telephone deduction of \$31 (see RFT 255). Adding Petitioner's housing expenses and utility credits results in a total shelter obligation (housing + utilities) of \$31.

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 \$848 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.⁴ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for October 2023 is \$36: the same amount calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility beginning October 2023.

³ . For FAP benefits, countable self-employment income is the amount of income before deductions minus allowable expenses. BEM 502 (October 2019) p. 3. Presumably, Petitioner reported self-employment income of \$10 per month and MDHHS applied a standard credit of 25% for expenses (see *Id.*)

⁴ 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.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner to be eligible for \$36 in FAP benefits beginning October 2023. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
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

Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180
**MDHHS-Wayne-18-
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Interested Parties

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Via-First Class Mail :

Petitioner

[REDACTED]
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