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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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ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 26, 2024
MOAHR Docket No.: 23-009496
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 January 24, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Megan Latonna, Hearings Facilitator and Eligibility Specialist. Layanna Jefferson, Hearings Facilitator and Eligibility Specialist, observed the hearing. Translation services were provided by Marianna Kakish, Department worker.

ISSUE

Did the Department 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. On August 3, 2023, the Department received Petitioner's application for FAP benefits.
2. On September 1, 2023, the Department and Petitioner completed an application interview during which Petitioner disclosed that his daughter was paying the rent and utilities but moved out on August 21, 2023.

3. Petitioner and his wife both receive [REDACTED] per month in Supplemental Security Income (SSI) benefits through December 31, 2023 in addition to \$10.50 per person for the State Supplemental Security Income Payment (SSP).
4. On October 5, 2023, the Department issued a Notice of Case Action to Petitioner advising him that effective November 1, 2023, his FAP benefit would be \$314.00 for a group size of two based upon [REDACTED] in unearned income and the \$198.00 standard deduction but no other deductions.
5. On December 27, 2023, the Department received Petitioner's request for hearing disputing the calculation of his FAP benefit rate.
6. At the hearing, Petitioner testified that his daughter stopped paying for the rent and utilities once she moved out and got married, but when asked repeatedly if he advised the Department of this change at the interview, he only reiterated that she stopped paying the expenses when she got married and moved out.

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. 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.

In this case, Petitioner disputes the Department's calculation of his FAP benefit rate. All countable, gross earned and unearned income available to the group must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the group's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Petitioner and his wife each receive a monthly SSI and SSP benefit totaling [REDACTED]; therefore, there is no need to further standardize his income.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner and his wife are a Senior, Disabled, or disabled Veteran (SDV); therefore, they are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expense deduction for the SDV group member

BEM 550 (April 2023), p. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), pp. 3-6.

As discussed above, Petitioner has standardized gross income of [REDACTED]. No evidence was presented that Petitioner has a child support or dependent care expense and the Department properly budgeted \$0.00 for these items. In addition, Petitioner has a group size of two, so they are eligible for the standard deduction of \$198.00. RFT 255 (October 2023), p. 1; BEM 556, p. 4. Next, Petitioner and his wife are SDV group members, but no evidence was presented of any verified medical expenses. Per policy an SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the SMD. BEM 554, p. 9. The SMD is \$165. *Id.* 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. *Id.* In addition, groups that do not have a 24-month benefit period may choose to budget a one-time-only expense for one month or average it over the balance of the benefit period. BEM 554, p. 9. Groups with a 24-month benefit period are given the option to budget the expense for one month, average it over the remainder of the first 12 months of the benefit period, or average it over the remainder of the 24-month benefit period. BEM 554, p. 10. After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) is calculated by subtracting each of these expenses from his gross income totaling [REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner's Housing Costs to any of the applicable standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Housing expenses include rent, mortgage, second mortgage, home equity loans, condo and maintenance fees, lot rent, other payments leading to the ownership of the home, property taxes, state and local assessments, and insurance on the structure of the home. BEM 554, p. 13. Petitioner informed the Department during his interview that his daughter was paying his rental and utility expenses even though she had moved out. Because Petitioner's daughter was paying the expenses, Petitioner is not eligible for any shelter deductions. BEM 554, pp. 13-14, 17-24.

Next, if Petitioner had an excess shelter cost, it would be deducted from his AGI to equal his net income. Since he has no excess shelter cost, his AGI is equal to his net income, [REDACTED]. Next, Petitioner's Net Income is compared against the Food Assistance Issuance Tables

RFT 260 to determine his benefit rate of \$314.00 per month. RFT 260 (October 2023), p. 11. The Department properly calculated Petitioner's FAP benefit rate.

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 FAP benefit rate.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge

