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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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 3, 2024
MOAHR Docket No.: 24-005699
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on June 24, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Remy Williams, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective May 1, 2024?

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 was an ongoing recipient of FAP benefits for a certified group of three, comprised of Petitioner and her two minor children. One of Petitioner's minor children, [REDACTED] (SB), is disabled. (Exhibit A, pp. 14 – 16).
2. On March 6, 2024, the Department received a completed FAP redetermination application from Petitioner through MiBridges, on which Petitioner reported she was employed, and that SB receives Supplemental Security Income (SSI) from the Social Security Administration (SSA). (Exhibit A, pp. 14 – 16).
3. On April 3, 2024, the Department interviewed Petitioner and Petitioner reported that she worked 30 – 35 hours per week, was paid \$ [REDACTED] per hour, and was paid semi-monthly. The Department sent Petitioner a Verification Checklist (VCL) on

that day and requested that Petitioner provide her last 30 days of paystubs or other employment verification to the Department by April 15, 2024. (Exhibit A, pp. 3, 17 – 19).

4. Petitioner provided two paystubs, which reflected that she was paid semi-monthly, one paystub issued April 10, 2024 showed Petitioner worked 42 hours and had gross wages of \$ [REDACTED] and one paystub issued April 25, 2024 showed Petitioner worked 66.5 hours and had gross wages of \$ [REDACTED] (Exhibit A, pp. 20 – 21).
5. On May 10, 2024, the Department received Petitioner's request for hearing regarding FAP and stating that she had provided all requested verification of income. (Exhibit A, pp. 4 – 5).
6. On May 15, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) approving Petitioner for FAP benefits of \$288 per month effective May 1, 2024 ongoing for a certified group of three. (Exhibit A, pp. 24 – 30).
7. On May 21, 2024, Petitioner verbally advised the Department she disputed the calculation of her income. (Exhibit A, p. 3).

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.

Petitioner requested a hearing to dispute the calculation of her income and the amount of her monthly FAP benefit.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the Petitioner must be included. BEM 500 (April 2022), pp. 1 – 5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505 (October 2023), p. 1. Wages from employment are earned income and SSI income is unearned income. BEM 501 (January 2024), pp. 6 – 7; BEM 503 (April 2024), p. 35.

Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505, pp. 1, 6. The Department must prospect an individual's income if income is received on a regular schedule but varies from check to check. BEM 505, pp. 2 – 4. Prospected income is to be a best estimate of income expected to be received during the month and requires knowledge of an individual's current, past, and anticipated future circumstances. BEM 505, pp. 3 – 4. The Department is to disregard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 6. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. Semi-monthly amounts are added together. BEM 505, pp. 8 – 9.

In this case, the evidence established that on April 3, 2024, Petitioner told the Department that she worked 30 – 35 hours per week, was paid \$ [REDACTED] per hour, and was paid semi-monthly. (Exhibit A, p. 3). During the hearing, Petitioner disputed the Department's calculation of her income but did not dispute that she reported that she normally worked 30 to 35 hours per week. In response to a request for verification of Petitioner's last 30 days of employment income, Petitioner provided the Department two paystubs on April 24, 2024. (Exhibit A, p. 1). The first paystub was dated April 10, 2024 and showed that Petitioner had worked 42 hours and had gross earnings of \$ [REDACTED] and the second was dated April 25, 2024 and showed that Petitioner had worked 66.5 hours and had gross earnings of \$ [REDACTED] (Exhibit A, pp. 20 – 21). The Department testified that because the number of hours reflected on the April 10 paystub was not consistent with what Petitioner reported during her interview, the Department disregarded it in calculating Petitioner's income. Petitioner explained that sometimes her paychecks are less because of vacations and other time off. There was no evidence presented that Petitioner had previously told the Department of any fluctuation in her income or that any fluctuation in her income was regular and ongoing. Therefore, because the gross income on the April 10 paystub was not consistent with Petitioner's report of her hours and earnings and there was no evidence that Petitioner reported her pay to be irregular, the Department properly disregarded it. BEM 505, p. 6. The Department introduced a FAP budget that reflected that it properly multiplied Petitioner's gross earnings of April 25, 2024 by two to determine that Petitioner's monthly gross earned income was \$ [REDACTED] (dropping cents). (Exhibit A, pp. 22, 25).

The Department testified that SB receives SSI (Exhibit A, p. 15) and a State SSI Payment (SSP). For SSI and SSP income, the Department counts the gross benefit amount as unearned income. BEM 503, p. 35. Petitioner did not dispute that SB receives a total of \$600 in SSI and SSP and the Department properly included that amount in the FAP budget. (Exhibit A, pp. 22, 25).

The budget introduced at the hearing reflects that the Department added Petitioner's gross earned income and the unearned SSI and SSP income together for total countable income of \$ [REDACTED] (Exhibit A, p. 22).

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because SB is disabled, Petitioner's group is considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with earned and unearned income may be eligible for the following deductions only:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (February 2024) p. 1; BEM 556 (May 2024) pp. 3 – 6.

In FAP groups with earned income, the gross countable earned income is reduced by a 20% earned income deduction. BEM 550, p. 1. In this case, 20% of Petitioner's total gross income of \$[REDACTED] was \$579 and the Department's budget reflects that it properly deducted that amount from Petitioner's countable income. (Exhibit A, pp. 22, 25).

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Groups of 1 to 3 receive a standard deduction of \$198. RFT 255 (October 2023). Based on Petitioner's three-person FAP group, the Department properly deducted \$198 from Petitioner's countable income, as shown on the budget. (Exhibit A, pp. 22, 25).

No evidence was introduced that Petitioner had any dependent care expenses or court ordered child support expenses and therefore, no deduction for either of those expenses are reflected on the budget. (Exhibit A, pp. 22, 25). SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. Petitioner testified that she reported out of pocket medical expenses for SB however she did not provide any details of how or when she did so and the Department did not have a record of an expense being reported on the redetermination application or during the interview. Therefore, the Department properly did not include a deduction for that expense. (Exhibit A, pp. 22, 25).

Before determining the excess shelter deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting available deductions from total countable income. Based on the information available to it at the time it completed the budget, the Department properly determined Petitioner's AGI to be \$2,715, based on

\$[REDACTED] in countable income reduced by the \$[REDACTED] earned income deduction and the \$198 standard deduction. (Exhibit A, p. 22).

Next, the Department determines any excess shelter expense deduction. To calculate this amount, the Department reviews Petitioner's housing and utility expenses, if any. While the Department did not introduce an excess shelter deduction budget, it testified that it budgeted \$1,800 for Petitioner's housing expense and \$680 for Petitioner's utilities. (Exhibit A, p. 25). However, petitioner testified that she pays \$677 per month for her housing and the balance is paid by Michigan State Housing Development Authority (MSHDA). Because FAP groups are only allowed the amount of a housing expense that they pay (BEM 554, p. 13), the Department's shelter expense is in Petitioner's favor.

A FAP group that has heating and utility costs including cooling, separate from the rental payment, is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17. The h/u standard is the most favorable utility standard available to a client, and FAP groups that receive the h/u standard do not receive any other individual utility standards. BEM 554, p. 16. The standard amount is \$680. RFT 255 (October 2023). Because Petitioner does pay for heat and other utilities for the household, the Department properly used the amount of \$680 for h/u when calculating Petitioner's excess shelter expense. (Exhibit A, p. 25).

Once Petitioner's housing and utility expenses have been determined, the Department adds those amounts together for a total shelter amount. The Department must then subtract 50% of Petitioner's AGI from the total shelter amount. In FAP groups with an SDV member, the excess shelter amount is not limited. BEM 554, p. 1.

In Petitioner's case, the Department added together Petitioner's reported monthly housing expense of \$1,800 and the \$680 h/u standard to arrive at a total shelter amount of \$2,400. The Department subtracted 50% of Petitioner's AGI, in the amount of \$1,357, from the total shelter amount to determine Petitioner's excess shelter deduction to be \$1,123. (Exhibit A, p. 22). The Department then subtracted the excess shelter deduction of \$1,123 from Petitioner's AGI of \$2,715, which determined Petitioner's net monthly income for purposes of FAP to be \$1,592. (Exhibit A, p. 22). The Department's calculations were made consistent with policy.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table of RFT 260. Based on Petitioner's three person FAP group size and net income of \$1,592, Petitioner's monthly benefit, effective May 1, 2024 was \$288. RFT 260 (October 2023), p. 22. This is consistent with the evidence presented. Therefore, based on the information available to it at the time, the Department acted in accordance with Department policy in calculating Petitioner's monthly FAP allotment for May 1, 2024 ongoing.

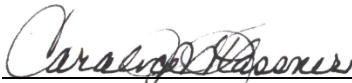
At the hearing, Petitioner also expressed concerns about a reduction of her FAP in July 2024 and the effect of her loss of employment, medical expenses, and housing expenses would have on future FAP budgets. Because those issues were not present at the time Petitioner submitted her hearing request, they are not addressed herein. Petitioner is advised that she may request a hearing if she disputes any additional Department action.

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 benefits effective May 1, 2024 ongoing.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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 :

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Via-First Class Mail :

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