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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: March 18, 2022
MOAHR Docket No.: 22-000303
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 March 14, 2022. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Tamara Brown, Eligibility Specialist.

ISSUE

Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case due to excess gross income?

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.
2. On September 20, 2021, Petitioner submitted a redetermination of benefits for FAP, reporting the following information:
 - a. Petitioner was a group size of two, consisting of her minor son and herself.
 - b. Petitioner had no senior (over 60 years old), disabled, or disabled veteran (S/D/V) group members.
 - c. Petitioner receives \$██████████ in monthly child support payments as reported to MDHHS during the renewal interview on January 24, 2022 (Exhibit A, p. 19).

d. Petitioner pays no child support or dependent care expenses.

e. Petitioner pays \$800.00 per month in rent. Petitioner is responsible for paying her own utilities.

(Exhibit A, pp. 8-11)

3. Petitioner began working for Chrysler Group, LLC (Employer) on September 1, 2021, receiving her first paycheck on October 15, 2021. Petitioner is paid \$15.78 per hour and receives a paycheck weekly. Petitioner's work hours vary each week, including inconsistent over-time (Exhibit A, pp. 12-17, 19).
4. On [REDACTED], 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that she was not eligible to receive FAP from October 1, 2021 to January 31, 2022 due to excess gross income (Exhibit A, pp. 21-25).
5. On January 25, 2022, MDHHS received Petitioner's timely submitted hearing request regarding her FAP case closure from October 1, 2021 to January 31, 2022 (Exhibit A, pp. 3-5). Petitioner was approved to receive FAP benefits from [REDACTED], 2022 to [REDACTED], 2023 due to a decrease in her earned income (Exhibit A, pp. 21-25).

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 [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 FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing regarding her FAP case closure from October 1, 2021 to January 31, 2022. At the hearing, Petitioner expressed concern that she did not receive FAP benefits prior to October 1, 2021. However, Petitioner's hearing request concerned the status of her FAP case following the October 2021 review. Further, MDHHS testified that from October 5, 2020 to September 30, 2021 Petitioner received regularly-issued FAP benefits each month. MDHHS testified that the amount Petitioner received each month during that period did fluctuate. While Petitioner would be entitled to request a hearing regarding the monthly FAP amounts that she is issued, she was required to request that hearing within 90 days from the date of the written notice of the case action. BAM 600 (March 2021), p. 6. Since Petitioner did not request the hearing timely

on the issue of her FAP benefits between October 2020 and September 2021, Petitioner's FAP benefits prior to October 1, 2021 will not be addressed. Petitioner's earned income decreased in February 2022 and she was subsequently approved for FAP benefits from [REDACTED], 2022 to [REDACTED], 2023. Petitioner did not dispute this eligibility or FAP amount that she was approved for.

At the hearing, MDHHS did not explain why it delayed processing Petitioner's redetermination for the certification period ending September 30, 2021 until January 2022. However, once it processed the redetermination, MDHHS concluded that Petitioner had excess income for FAP eligibility for [REDACTED] 2021 through [REDACTED] 2022 by calculating her monthly household budget for October 2021, November 2021, December 2021, and January 2022. MDHHS calculated Petitioner's gross and net income to determine eligibility and presented documentation of the amounts they relied upon (see Exhibit A, pp. 26-33). During the hearing, all relevant budget factors were discussed with Petitioner.

All FAP groups which do not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member must have income below the gross income limit and the net income limit. BEM 550 (October 2020), p. 1. Petitioner confirmed her FAP group size is two and contains no S/D/V members. For October 2021 to January 2022, the gross income limit for a group size of two was \$2,904.00. RFT 250 (October 2021), p. 1; BEM 213 (October 2021), p. 1. FAP groups with two members are eligible for FAP if their net income does not exceed \$2,396.00. RFT 250, p. 33; BEM 213.

In determining income, MDHHS begins by calculating the group's gross monthly income. MDHHS determined that Petitioner had \$[REDACTED] in monthly unearned income from child support payments. Department policy requires that that child support payments Petitioner received in the past three calendar months be averaged unless changes are expected. BEM 505 (July 2021), p. 4. In this case, Petitioner reported during the renewal interview that she receives \$[REDACTED] per month in child support payments. This averages to \$[REDACTED] in monthly child support Petitioner receives. Petitioner confirmed that the amounts that MDHHS relied on is what she receives. Petitioner confirmed that she receives no other unearned income. Therefore, MDHHS properly calculated Petitioner's unearned income amount.

MDHHS calculated Petitioner's earned income from employment based upon the information retrieved from the Work Number database (see Exhibit A, pp. 12-17). A group's benefits for a month are based, in part, on a prospective income determination. MDHHS uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. A standard monthly amount must be determined for each income source used in the budget. To convert weekly income to a standard monthly amount, MDHHS multiplies the weekly income amount by 4.3. BEM 505, p. 8. However, because MDHHS delayed the processing of the redetermination, it considered Petitioner's actual income for October 2021 to January 2022 in determining FAP eligibility. Petitioner's hours worked each week vary, so MDHHS calculated a monthly budget for October 2021, November 2021, December 2021, and January 2022:

October 2021:

Petitioner received her first paycheck from Employer on October 15, 2021. She received two additional paychecks for the month of October. In determining FAP eligibility for October 2021, MDHHS considered Petitioner's actual income. MDHHS added together the gross pay that she received on October 15, October 22, and October 29 for a total of \$[REDACTED]. This is below the gross income limit for a group size of two, so MDHHS then went on to determine her net income eligibility for October 2021.

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. For groups without a S/D/V member, MDHHS considers the following expenses: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, and a capped excess shelter expense. BEM 554 (July 2021) p. 1.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. Petitioner's two-person FAP benefit group size justifies a standard deduction of \$177.00. RFT 255 (October 2021) p. 1. Petitioner testified that she does not pay child support or childcare expenses, so her non-shelter expenses was properly calculated to be \$0.00. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Petitioner's adjusted gross income is calculated to be \$[REDACTED].

MDHHS is then required to calculate Petitioner's housing expenses to determine if she has an excess shelter expense. Petitioner pays \$800.00 per month in rent and must pay her own utilities. As confirmed in the January 24, 2022 Notice of Case Action, MDHHS properly calculated Petitioner's housing cost to be \$800.00 and used the full \$559.00 heat/utility standard. 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. Here, Petitioner's total shelter amount is \$1,359.00 and half of her adjusted gross income is \$[REDACTED]. This calculates to a negative number; therefore, Petitioner is not eligible for an excess shelter deduction, as MDHHS determined.

Petitioner's net income for October 2021 is \$[REDACTED], which exceeds the amount for FAP eligibility under RFT 260. Therefore, MDHHS properly determined that Petitioner was not eligible to receive FAP in October 2021 due to excess net income.

November 2021:

Petitioner received four paychecks in November 2021. MDHHS averaged the gross pay Petitioner received, then multiplied by 4.3 to determine the standard monthly amount of \$[REDACTED]. This exceeds the gross income limit for November 2021. Therefore, MDHHS

acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits in November 2021.

December 2021:

Petitioner received five paychecks in December 2021. MDHHS averaged the gross pay then multiplied by 4.3 to determine the standard monthly amount of \$[REDACTED]. Even though Petitioner's actual income in December 2021 is greater than the amount considered by MDHHS, the amount considered by MDHHS is nevertheless greater than the gross income limit for FAP eligibility. Therefore, MDHHS acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits in December 2021.

January 2022:

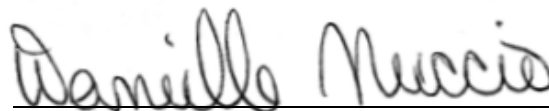
Petitioner received three paychecks for January 2022 at the time that MDHHS calculated her household budget. Since MDHHS did not have a full 30 days of income to rely upon, they were required to use the best available information to prospect income for January. MDHHS should have taken the amounts from the last 30 days ($362.86 + 497.07 + 1215.06 + 1263.67 = \$[REDACTED]$), then divided the total by 4 to get the average for each week (\$834.67), then multiplied by the 4.3 weekly multiplier to arrive at the prospected income for the month of January: \$[REDACTED]. MDHHS calculated that Petitioner had \$[REDACTED] in earned income, without explanation as to how this amount was calculated. However, both amounts are over the gross income limit. Therefore, MDHHS acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits in [REDACTED] 2022.

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 policy when they calculated Petitioner's household income to determine her eligibility to receive FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**

DN/mp



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

Email Recipients:

MDHHS-Macomb-20-Hearings
D. Sweeney
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BSC4

First-Class Mail Recipient:

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