



GRETCHEN WHITMER
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 24, 2022
MOAHR Docket No.: 22-000462
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 17, 2022. The Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Angel Robinson, Lead Eligibility Specialist.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget?

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.
2. Following an application on ██████, 2021 for State Emergency Relief (SER), MDHHS reviewed Petitioner's household income, including earned income received by ██████ (Daughter). MDHHS then updated the household income for Petitioner's FAP case.
3. On November 18, 2021, MDHHS issued a Notice of Case Action to Petitioner informing him that, effective December 1, 2021, his FAP benefits had decreased to \$288.00 per month for a group size of four based upon \$██████ in earned income and \$██████ in unearned income. Petitioner requested a hearing disputing the decrease in his FAP benefits.

4. On January 20, 2022, following an administrative hearing, MDHHS was ordered to recalculate Petitioner's FAP budget for December 1, 2021 ongoing (Exhibit A, pp. 14-18).
5. As of December 1, 2021, MDHHS should have considered the following circumstances for Petitioner:
 - a. Petitioner was a group size of four.
 - b. Petitioner's wife (Wife) was a [REDACTED] (over [REDACTED] years old), disabled, or disabled veteran (S/D/V) member.
 - c. Wife received \$[REDACTED] per month in Supplemental Security Income (SSI) and \$[REDACTED] per month in State SSI Payments (SSP).
 - d. Daughter was employed at Meijer Stores (Employer), working fluctuating hours, and paid weekly.
 - e. Petitioner had no housing costs but pays utilities.
6. On January 26, 2022, MDHHS issued a Notice of Case Action to Petitioner informing him that effective [REDACTED], 2022, he was approved to receive \$235.00 in monthly FAP benefits for a group size of four, based upon \$[REDACTED] in earned income and \$[REDACTED] in unearned income (Exhibit A, pp. 27-31).
7. On February 1, 2022, MDHHS received Petitioner's timely submitted hearing request to dispute the monthly amount of FAP benefits that he is eligible to receive (Exhibit A, pp. 3-5).

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).

Following an administrative hearing, MDHHS was ordered to recalculate Petitioner's FAP budget for December 1, 2021 ongoing. Petitioner timely requested a hearing to dispute the determination of FAP benefits.

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 factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility. During the hearing, all relevant budget factors were discussed with Petitioner.

MDHHS budgeted \$[REDACTED] per month in unearned income for the household based on Wife's receipt of \$[REDACTED] per month in Supplemental Security Income (SSI) and \$[REDACTED] per month in State SSI Payments (SSP). Petitioner confirmed that this unearned income amount was correct, and his household receives no other unearned income. Therefore, MDHHS properly calculated Petitioner's unearned income.

Following the administrative order, MDHHS calculated the household earned income using the past 90 days of Daughter's income information retrieved from the Work Number database (see Exhibit A, pp. 25-26). The only earned income in the household is what Daughter earns from Employer. Daughter is paid on a weekly basis and her earnings fluctuate each month. MDHHS was ordered to calculate Daughter's income using the past 60 or 90 days of earnings pursuant to BEM 505 which states that:

For fluctuating or irregular income, MDHHS is required to use the past 60 or 90 days if the past 30 days is not a good indicator of future income and the fluctuations in income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

BEM 505 (November 2021) p. 6.

MDHHS testified that they averaged Daughter's last 90 days of income (from October 20, 2021 to January 17, 2022) then used the standard multiplier 4.3 to determine her gross monthly income. MDHHS testified that the total earned income for the household was \$[REDACTED]. However, when all the income Daughter received between from October 20, 2021 to January 17, 2022, as shown on the Work Number report, is added together, then divided by 13 paychecks received during that period to determine the average weekly pay and multiplied by the 4.3 multiplier required by MDHHS policy to determine the standard monthly employment income Daughter received from Employer, the result is \$[REDACTED]. Although MDHHS properly calculated the monthly FAP allotment Petitioner was eligible to receive based on Daughter receiving \$[REDACTED] in gross monthly employment income, this calculation must be adjusted to reflect Daughter's correct income. Therefore, MDHHS failed to satisfy its burden of showing that it calculated Petitioner's FAP allotment in accordance with MDHHS policy for March 2022 ongoing.

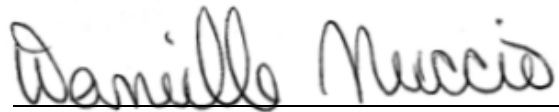
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the MDHHS did not act in accordance with policy in calculating Petitioner's household budget to determine his eligibility for FAP benefits.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate the FAP budget for March 1, 2022 ongoing;
2. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from March 1, 2022 ongoing; and
3. Notify Petitioner of its decision in writing.

A handwritten signature in cursive script, reading "Danielle Nuccio", written in black ink.

Danielle Nuccio
Administrative Law Judge

DN/mp

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-Wayne-17-hearings
D. Sweeney
M. Holden
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First-Class Mail Recipient:

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