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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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Date Mailed: May 17, 2022
MOAHR Docket No.: 22-001305
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on May 11, 2022 via teleconference. Petitioner appeared and represented himself. Petitioner participated in the hearing with the assistance of a Spanish interpreter. Candice Bennis, Hearing Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

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

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 January 21, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefit rate for a household of one would decrease to \$██████████ per month, effective March 1, 2022 (Exhibit A, p. 7). The decrease was due to a change in his unearned income and shelter deduction amount (Exhibit A, p. 8).
3. On ██████████, 2022, Petitioner filed a Request for Hearing to challenge the reduction in his FAP benefit rate (Exhibit A, p. 4).

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. MDHHS 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 filed a hearing request to challenge the decrease in his FAP benefit rate to \$█████ per month. However, due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that FAP households not receiving the maximum benefit for their group size will receive a supplement to bring their benefit amount to the maximum amount allowed for their group size. ESA Memo 2022-22 (January 2022). If the supplement does not equal or exceed \$95.00, the group will receive additional benefits up to \$95.00, even if this causes them to exceed the maximum benefit amount for the group size. *Id.* While the EA are in effect, Petitioner's FAP benefit amount is the maximum for a household size of one, which was \$█████ per month as of October 1, 2021. *Id.*; RFT 260 (October 2021), p. 1. When the EA are no longer in effect, Petitioner will receive his regular benefit amount, which MDHHS determined was \$█████ per month.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (July 2020), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), p. 1. MDHHS is required to prospect income using the best estimate of income expected to be received during the month and should seek input from the client to establish the estimate, whenever possible. BEM 505, p. 3. For Supplemental Security Income (SSI), MDHHS counts the gross benefit amount as unearned income. BEM 503 (April 2021), p. 35.

Here, MDHHS presented evidence that Petitioner receives \$█████ per month in SSI (Exhibit A, p. 10). SSI is a benefit administered by the Social Security Administration (SSA). BEM 503, p. 35. Michigan SSI benefits include a basic federal benefit and an additional amount paid from state funds, known as the State SSI Payment (SSP). *Id.* The record shows that MDHHS budgeted \$855.00 for Petitioner's unearned income, which represents his monthly SSI and SSP benefits (Exhibit A, p. 8). Petitioner did not dispute this amount. Because the payments are received on a monthly basis, there was

no need to further standardize Petitioner's income. No evidence of earned income was presented. Thus, MDHHS properly determined Petitioner's countable income as \$[REDACTED] per month.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for the following deductions:

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 3.

No evidence was presented that Petitioner had any dependent care expenses or court ordered child support. MDHHS budgeted the standard deduction based on a group-size of one, which was \$[REDACTED]. RFT 255 (October 2021), p. 1. Petitioner is also entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$[REDACTED]. BEM 554, p. 1. No evidence was presented of verifiable medical expenses.

To determine Petitioner's Adjusted Gross Income (AGI), MDHHS is required to subtract the deductions above from Petitioner's countable income of \$[REDACTED]. Subtracting \$[REDACTED] from \$[REDACTED] equals \$[REDACTED]. Thus, Petitioner's AGI was \$[REDACTED].

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction, MDHHS stated that it considered Petitioner's verified housing expenses of \$[REDACTED] and that he was responsible for paying for electric, which entitled him to the non-heat electric standard of \$[REDACTED]. BEM 554, p. 22; RFT 255, p. 1. MDHHS also determined that Petitioner was eligible for the phone standard of \$[REDACTED].00. RFT 255, p. 1. Adding together these amounts, Petitioner's total housing expenses are \$[REDACTED]. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$[REDACTED], from Petitioner's total shelter amount of \$[REDACTED] equals \$[REDACTED]. Therefore, Petitioner's excess shelter deduction equals \$[REDACTED].

Finally, to determine Petitioner's net income for FAP, MDHHS must subtract the excess shelter deduction of \$[REDACTED] from Petitioner's AGI of \$[REDACTED], which equals \$[REDACTED]. An individual with a net income of \$[REDACTED] and a FAP group of one is entitled to receive \$[REDACTED] per month in FAP benefits. RFT 260 (October 2021), p. 9.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS's decision is **AFFIRMED**.



Linda Jordan
Administrative Law Judge

LJ/tm

