



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: May 23, 2022
MOAHR Docket No.: 22-001678
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 16, 2022 via teleconference. Petitioner appeared and represented herself. Oscar Brummit, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly calculate Petitioner's 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. On ██████████, 2022, Petitioner applied for FAP benefits on behalf of herself and her three children (Exhibit A, p. 1).
2. On March 11, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits at a rate of \$██████████ per month for a household of four, effective March 1, 2022 to February 18, 2023 (Exhibit A, p. 20). The FAP benefit rate was based on \$██████████ in unearned income (Exhibit A, p. 21).
3. On ██████████, 2022, Petitioner requested a hearing to dispute the calculation of her FAP benefit amount (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 requested a hearing to dispute her FAP benefit rate. On March 11, 2022, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits at a rate of \$[REDACTED] per month for a household of four, effective March 1, 2022 to February 18, 2023 (Exhibit A, p. 20). However, due to the Public Health Emergency, 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. 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 four, which was \$[REDACTED] 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 her ongoing FAP benefit rate, which MDHHS calculated as \$[REDACTED] per month.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (July 2020), pp. 1-5. MDHHS budgeted \$[REDACTED] in unearned income for the household based on Retirement, Survivors, Disability Insurance (RSDI) income received by Petitioner and RSDI and child support received on behalf of her three minor children.

For RSDI, MDHHS is required to budget the gross benefit amount as unearned income. BEM 503 (April 2021), p. 29. MDHHS introduced evidence that Petitioner received \$[REDACTED] per month in RSDI and that her three minor children received RSDI payments of \$[REDACTED] each. Adding those amounts together equals \$[REDACTED] (dropping the cents) (Exhibit A, pp. 6-17). MDHHS stated that the Petitioner also received child support, which brought Petitioner's monthly gross income to \$[REDACTED]. Petitioner did not dispute these amounts.

After income is calculated, MDHHS must determine applicable deductions. Because Petitioner's household contains individuals with disabilities, their 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 Petitioners had earned income, dependent care expense or court-ordered child support. MDHHS budgeted the standard deduction based on a group-size of four, which was \$184.00. RFT 255 (October 2021), p. 1. Petitioner was also entitled to deductions for *verified* medical expenses incurred in excess of \$35. BEM 554, p. 1. An SDV group that has a verified one-time or ongoing medical expense of more than \$35.00 for an SDV person will receive the Standard Medical Deduction (SMD) of \$165.00. *Id.*, p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option of verifying the actual expenses instead of receiving the SMD. *Id.* In this case, no evidence was presented that Petitioner submitted proof of medical expenses that exceeded \$35.00 for the household. Petitioner was advised that if she had medical expenses exceeding \$35.00, that she should submit proof of the medical expenses to MDHHS.

The above deductions were subtracted from Petitioners' monthly income of \$[REDACTED] to determine Petitioners' Adjusted Gross Income (AGI). The record shows that MDHHS properly determined that Petitioners' AGI was \$[REDACTED]

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$[REDACTED], MDHHS stated that it considered Petitioner's verified housing expenses of \$[REDACTED] and budgeted the heat and utility standard of \$[REDACTED]. BEM 554, pp. 14-15. Petitioners did not dispute these amounts. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$[REDACTED] and the heat/utility standard of \$[REDACTED], which equaled \$[REDACTED] (rounding up). To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioners' AGI, or \$[REDACTED], from Petitioners' total shelter amount of \$[REDACTED] equals \$147.00. Therefore, MDHHS properly determined that Petitioners' excess shelter deduction was \$[REDACTED].

Finally, to determine Petitioners' net income for FAP, MDHHS subtracted the excess shelter deduction of \$[REDACTED] from Petitioner's AGI of \$[REDACTED], which equals \$[REDACTED]. A household of four with a net income of \$[REDACTED] is entitled to receive \$[REDACTED] per month in FAP benefits. RFT 260 (October 2021), p. 37.

Petitioner also expressed her concern that the Notice of Case Action indicated that she and two of her sons had been registered for work due to participation in FAP (Exhibit A, p. 21). Although MDHHS did not have an explanation for why the notice contained this language, it asserted that no negative action had been taken against the FAP group due to this clause. Petitioner stated her belief that her FAP benefit rate was affected by the work registration. However, the record shows that the FAP benefit rate was based on Petitioner's countable income and applicable deductions, which MDHHS budgeted properly, as explained above.

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' decision is **AFFIRMED**.



LJ/tm

Linda Jordan
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-Oakland-2-Hearings
M. Holden
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First-Class Mail Recipient:

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