



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 27, 2022
MOAHR Docket No.: 22-002211
Agency No.:
Petitioner: [REDACTED]

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 June 21, 2022. Petitioner appeared and represented herself. Kathleen Hopper, Assistance Payments Supervisor, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly terminate Petitioner's Food Assistance Program (FAP) benefits?

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 April 29, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) issued a Hearing Decision regarding whether MDHHS properly terminated Petitioner's FAP benefits, in MOAHR Docket No: 22-001406 (Exhibit A, pp. 20-24). The Administrative Law Judge in that case found that MDHHS did not properly calculate Petitioner's unearned income with respect to Petitioner's retirement income. The Hearing Decision ordered MDHHS to redetermine Petitioner's eligibility for FAP benefits beginning February 2022 ongoing (Exhibit A, p. 23).
2. On May 4, 2022, MDHHS sent Petitioner a Notice of Case Action, indicating that Petitioner's FAP case was closed, effective February 1, 2022 ongoing (Exhibit A, p. 15). The reason for the closure was that Petitioner's net income exceeded the

income limit for the program (Exhibit A, p. 16). MDHHS budgeted \$[REDACTED] in unearned income for Petitioner (Exhibit A, p. 16).

3. On [REDACTED], 2022, Petitioner filed a Request for Hearing to dispute MDHHS' termination of her FAP benefits, stating that MDHHS improperly calculated her income (Exhibit A, pp. 3-6).

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 disputed MDHHS' determination that she was over the income limit for FAP. Specifically, Petitioner argued that MDHHS improperly converted her retirement income into a monthly amount. Petitioner stated that she only receives a payout from that account once a year, and therefore, MDHHS should not budget it as a monthly payment. MDHHS argued that it was required to budget the income on a monthly basis, and thus, it divided the annual retirement income by 12 to reach a standard monthly amount. MDHHS asserted that this process was appropriate under the circumstances and that it was in line with Department policy.

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. Each source of income is converted into a standard monthly amount. *Id.*, p. 1. Single payment income refers to income that is received in one month that is intended to cover more than one month. *Id.*, p. 2. For single payment income, MDHHS must establish a standard monthly amount by dividing the income by the number of months that it covers. *Id.*, p. 9.

For Petitioner's income, MDHHS budgeted [REDACTED] in monthly earned income and \$[REDACTED] in monthly unearned income (Exhibit A, p. 9). At the hearing, Petitioner did not dispute the amounts that MDHHS budgeted for earned income or for the

Retirement, Survivors, Disability Insurance (RDSI) income received by members of the household. Petitioner did not dispute the amounts that MDHHS budgeted for her housing expenses and other deductions. Therefore, the only remaining issue is the retirement income from Petitioner's annuity payout.

Petitioner testified that she receives an annuity payout from her retirement account and submitted documentation that shows that she receives an annual payment in the amount of \$[REDACTED] (Exhibit A, p. 7). For retirement income, MDHHS considers the gross benefit amount as unearned income. BEM 503 (April 2021), p. 29. MDHHS testified that it divided the annuity payment by 12 to determine a monthly amount of \$[REDACTED] for the retirement income. This was proper because single payment income must be converted into a standard amount by dividing the income by the number of months the income is intended to cover. BEM 505, p. 9. Annuity payments are by definition annual payments intended to cover 12 months.

To determine the total amount of unearned income for the household, MDHHS added together the [REDACTED] that the household receives in RSDI income and [REDACTED] in monthly retirement income, which equals \$[REDACTED]. After factoring in the earned income for the household, MDHHS determined that Petitioner's monthly countable income for FAP was [REDACTED].

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.

MDHHS budgeted an earned income deduction of \$[REDACTED] for the household. 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 three, 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] and \$[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]. MDHHS also determined that Petitioner was eligible for the phone standard of \$[REDACTED] 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 a negative number. Therefore, Petitioner is not eligible for the excess shelter deduction.

Finally, to determine Petitioner's net income for FAP, MDHHS must subtract the excess shelter deduction of \$0.00 from Petitioner's AGI of \$[REDACTED], which equals \$[REDACTED]. A household of three with a net income of \$[REDACTED] exceeds the FAP net income limit of \$[REDACTED] and thus, is not entitled to receive FAP benefits. RFT 250 (October 2021), p. 1.

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**.

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

Via-Electronic Mail :

MDHHS-Oakland-4-Hearings
M. Holden
D. Sweeney
BSC4
MOAHR

Via-First Class Mail :

Petitioner

MI