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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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DIRECTOR

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Date Mailed: October 7, 2022
MOAHR Docket No.: 22-003944
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 October 3, 2022. The Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Angela Lewis, Eligibility Specialist.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine his monthly amount of 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 ██████████ 2022, Petitioner submitted an application for FAP benefits for a one-person group. Petitioner reported that:
 - a. Petitioner is a ██████████ (over ██████ years old), disabled or disabled veteran (S/D/V) individual.
 - b. Petitioner reported that he receives \$██████████ per month in Retirement, Survivors, Disability Insurance (RSDI) and Veteran Compensation Income.
 - c. Petitioner reported that he pays child support for one child.
 - d. Petitioner did not report paying any dependent care expenses.

- e. Petitioner did not submit proof of any medical expenses.
 - f. Petitioner reported paying \$950.00 per month for rent and is responsible for paying for utilities.
2. On September 1, 2022, MDHHS issued a Notice of Case Action to Petitioner informing him that he was eligible for FAP benefits in the amount of \$20.00 monthly for a group size of one, effective September 1, 2022 (Exhibit A, pp. 20-24).
 3. On September 7, 2022, MDHHS received a timely submitted request for a hearing from Petitioner disputing the monthly amount of FAP benefits 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 (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. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Petitioner requested a hearing to dispute the determination of his monthly FAP amount. Petitioner was approved to receive \$20.00 per month in FAP benefits.¹

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.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. Petitioner reported receiving both RSDI and Veteran Compensation Income. RSDI is a federal benefit administered by the Social Security Administration that is available to

¹ Though Petitioner is only eligible for \$20.00 in monthly FAP benefits, MDHHS has issued the maximum FAP issuance for a client's group size since March 2020. The extra benefits are a result of a temporary policy during the COVID-19 pandemic. As the policy is only temporary, a full analysis of Petitioner's FAP eligibility is still appropriate.

retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the **gross** benefit amount of RSDI as unearned income. BEM 503 (April 2022), p. 29 (Emphasis Added). Veteran Compensation Income is issued by the Department of Veterans Affairs (VA). MDHHS counts the **gross** amount of pension or compensation from VA as unearned income. BEM 503, p. 39 (Emphasis added). Petitioner confirmed that he receives \$ [REDACTED] in monthly gross unearned income. However, Petitioner disputes that MDHHS counted his gross unearned income, rather than his net income, which is what is actually available to him. Policy clearly states that MDHHS must use gross income in calculating both RSDI and VA unearned income. Petitioner reported no current earned income or self-employment income. Therefore, MDHHS properly calculated Petitioner's income amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2022) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, a capped excess shelter expense, the medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$177.00. RFT 255 (October 2021), p. 1. MDHHS properly included the standard deduction in Petitioner's household budget.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. Petitioner did not submit for consideration out of pocket medical expenses. Subsequent to Petitioner's request for hearing, MDHHS issued a VCL to Petitioner regarding his actual medical expenses so that they could be considered in Petitioner's household budget in the future. Therefore, MDHHS properly counted Petitioner's medical expenses at the SMD of \$165.00.

Child support expenses are allowed for the following:

- The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.
- Court-ordered third-party payments (landlord or utility company) on behalf of a non-household member.
- Legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Current and arrearage child support expenses must be paid to be allowed. BEM 554, p. 6. In order to include child support expenses into the household budget, MDHHS must verify:

- The household's legal obligation to pay.
- The monthly amount of the obligation for current child support.
- The amount of child support the household actually pays.

BEM 554, p. 6.

Acceptable verification sources include, but are not limited to

- Court or administrative order.
- Legally enforceable separation agreement.
- Wage withholding statements.
- Verification of withholding from unemployment compensation or other unearned income.
- Statements from the custodial parent regarding direct payments.
- Statements from the custodial parent regarding third party payments the noncustodial parent pays or expects to pay on behalf of the custodial parent.
- Data obtained from the state's Child Support Enforcement System (MICSES).

BEM 554, pp. 6-7.

In this case, Petitioner testified that he only has a verbal arrangement with the mother of his child to pay her child support. MDHHS advised him that he can provide a letter from the mother or MDHHS would call the mother directly in order to verify Petitioner's child support amount. Petitioner testified that he did not provide this information to MDHHS and did not wish for anyone to contact the mother. Without verification of the amount of child support Petitioner pays each month, MDHHS is unable to include this expense in Petitioner's household budget. Therefore, MDHHS properly counted Petitioner's child support expenses to be \$0.00. Subsequent to Petitioner's request for hearing, MDHHS issued a VCL to Petitioner regarding his child support expenses so that they could be considered in Petitioner's household budget in the future.

Petitioner testified that he does not pay any dependent care expenses. Thus, MDHHS properly counted the group's non-shelter expenses to be \$342.00.

Petitioner disputes that the amount that he pays each month in student loan repayment and unemployment benefit repayment is not included as an expense. Policy does not allow the amount a client pays towards loans or debt to be deducted from their gross income. BEM 500, p. 4. Therefore, MDHHS acted in accordance with policy in not including these payments in calculating Petitioner's household budget.

MDHHS calculated Petitioner's housing expenses from his report of \$950.00 in rent and responsibility for paying utilities. Petitioner was credited with a standard heating/utility (h/u) credit of \$559.00. RFT 255, p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available. 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. Petitioner's excess shelter amount is \$704.00.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$ [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2021) p. 13. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$20.00; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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 Department policy when it determined Petitioner to be eligible for \$20.00 in monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's 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

Via-Electronic Mail :

DHHS
MDHHS-Macomb-20-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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