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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 13, 2022
MOAHR Docket No.: 22-004728
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on December 7, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kristalyn Ray, supervisor

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

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 and reported \$110 in monthly medical expenses.
2. On May 6, 2022, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of medical expenses by May 16, 2022.
3. On May 6, 2022, Petitioner submitted to MDHHS a document listing various medical expenses, but no dates, medical treaters, or service provided.
4. As of ██████████ 2022, Petitioner was eligible to receive ongoing FAP benefits as a group size of one person.

5. As of August 2022, Petitioner received \$[REDACTED] in monthly short-term disability income.
6. As of August 2022, Petitioner had no child support or dependent care, or updated medical expenses.
7. As of August 2022, Petitioner reported to MDHHS a responsibility for heating/cooling expenses and \$665 in monthly housing expenses.
8. On [REDACTED] 2022, MDHHS determined Petitioner to be ineligible for FAP benefits beginning [REDACTED] 2022 due to excess net income.
9. On October 13, 2022, Petitioner requested a hearing to dispute the termination of FAP benefits.

CONCLUSIONS OF LAW

The 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 the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the BAM, BEM, and RFT.

Petitioner verbally requested a hearing to dispute a termination of FAP benefits.¹ Exhibit A, pp. 3-5. A Notice of Case Action dated [REDACTED] 2022, stated that Petitioner's FAP eligibility would close beginning [REDACTED] 2022 due to excess net income. Exhibit A, pp. 11-15.

For FAP benefits, net income is based on a client's group size, countable monthly income, and relevant monthly expenses BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented a budget verifying how it calculated Petitioner's net income for FAP benefits.² Exhibit A, pp. 7-9. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size of one person. Petitioner did not dispute the group size.³

MDHHS factored \$[REDACTED] in unearned income for Petitioner. Petitioner's testimony acknowledged that he received \$[REDACTED] in monthly short-term disability income through his employer.⁴ MDHHS is to count worker's compensation benefits paid by an employer

¹ Clients may verbally request hearings to dispute FAP eligibility. BAM 600 (March 2021) p. 2.

² The notice of FAP termination sent to Petitioner included a summary listing the income and expenses factored by MDHHS. Exhibit A, p. 12.

³ See BEM 212 for policies on determining group size for FAP benefits.

⁴ MDHHS also presented documentation verifying the income. Exhibit A, p. 10.

as unearned income. BEM 503 (April 2022) p. 42. The evidence established that MDHHS properly counted Petitioner's unearned income of \$[REDACTED]

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2015), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: childcare, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members (see *Id.*). For groups containing SDV members, MDHHS additionally considers an uncapped excess shelter expense and the medical expenses above \$35 for each SDV group member(s). Petitioner was disabled and/or aged.

Petitioner's testimony acknowledged having no child support or dependent care expenses. Petitioner did dispute medical expenses.⁵

Petitioner claimed he had thousands of unpaid medical expenses from before he MDHHS issued Medicaid in early 2022. There was no evidence that Petitioner reported the expenses to MDHHS before Petitioner's FAP eligibility ended.⁶

MDHHS acknowledged that Petitioner reported \$110 in monthly medical expenses on an application dated [REDACTED] 2022. MDHHS credibly testified that Petitioner was sent a VCL the following day. MDHHS further testified that Petitioner responded with a document listing amounts, but no patient name, no medical treater, no date of service, and no specified treatment.

MDHHS is to project a client's medical expenses during the benefit period. BEM 554 (January 2022) p. 12. Acceptable medical expenses must not be overdue. *Id.* Acceptable verification of medical expenses includes a current bill or written statement from the provider, which shows all amounts paid by, or to be paid by, insurance. *Id.*, p. 13.

MDHHS properly rejected Petitioner's submission as acceptable verification as it could not verify that Petitioner incurred the expense due to the absence of a patient name. Also, the absence of dates renders it impossible for MDHHS to determine if the bill was overdue. Further, without a medical treater, the document would not qualify as a medical bill. Given the evidence, MDHHS properly factored Petitioner's medical expenses as \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$177 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the

⁵ It is not known if Petitioner qualifies as an SDV individual to receive medical expense credits (see BEM 550). For purposes of this decision, it will be assumed that Petitioner is an SDV individual.

⁶ Petitioner submitted medical expense documents to MDHHS on September 27, 2022. The submission was too late as Petitioner's FAP eligibility ended after [REDACTED] 2022.

group's adjusted gross income. Subtracting the standard deduction (\$177) and countable non-shelter expenses (\$0) from Petitioner's countable income (\$[REDACTED]) results in an adjusted gross income of \$[REDACTED].

MDHHS credited Petitioner with monthly housing expenses of \$665; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$559. RFT 255 (January 2021) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁷ Adding Petitioner's housing and utility credits results in a total shelter obligation of \$1,224.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$148.

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. The net income limit for Petitioner's group size is \$1,074. RFT 250 (October 2021) p. 1. Because Petitioner's group's net income exceeds the income limit, MDHHS properly terminated Petitioner's FAP eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FAP eligibility beginning [REDACTED] 2022. The actions taken by MDHHS are **AFFIRMED**.

CG/mp



Christian Gardocki
Administrative Law Judge

⁷ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

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]