



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████
██████████
██████████, MI ██████████

Date Mailed: December 14, 2022
MOAHR Docket No.: 22-005215
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 December 7, 2022 via teleconference. Petitioner appeared and represented herself. Saquoyah Reeves, Assistance Payments Supervisor, and Corlette Brown, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

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 for a household of one (Exhibit A, pp. 7-8).
2. On October 5, 2022, MDHHS issued a Notice of Case Action advising Petitioner that she was eligible for FAP benefits for a household of one at a rate of \$ ██████████ per month, effective ██████████ 2022 ongoing (Exhibit A, p. 19).
3. On ██████████ 2022, Petitioner filed a Request for Hearing to dispute the calculation of her FAP benefit rate (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. 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, MDHHS determined that Petitioner was eligible for FAP benefits at a rate of \$[REDACTED] per month. Petitioner disputed the calculation of her FAP benefit rate.

On October 5, 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 one, beginning November 1, 2022 (Exhibit A, p. 19). However, due to the COVID-19 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 2022-47 (November 2022). The State of Michigan has approved EAs from April 2020 through November 2022. *Id.* Additionally, 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 \$281.00 per month as of October 1, 2022. *Id.*; RFT 260 (October 2022), p. 1. When the EA are no longer in effect, Petitioner will receive her ongoing FAP benefit rate, which MDHHS calculated to be \$[REDACTED] 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 (April 2022), pp. 1-5. MDHHS budgeted \$[REDACTED] in unearned income for Petitioner based on Retirement, Survivors, Disability Insurance (RSDI) income that she receives (Exhibit A, pp. 13-16). Petitioner objected to MDHHS using the gross amount of her RSDI income. However, policy requires that MDHHS budget the gross benefit amount as unearned income for RSDI. BEM 503 (October 2022), p. 29. There was no evidence of additional earned or unearned income. Therefore, MDHHS properly determined that Petitioner's countable income for the purposes of 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 (October 2022), p. 1; BEM 556 (October 2022), p. 3.

No evidence was presented that Petitioner had dependent care expenses or court-ordered child support. MDHHS budgeted the standard deduction for a household of one, which was \$[REDACTED]. RFT 255 (October 2022), p. 1.

SDV groups are eligible for a deduction for medical expenses. Policy provides that an SDV person who has a verified one-time or ongoing medical expense or expenses of more than \$35.00 is entitled to the Standard Medical Deduction (SMD) of \$165.00. BEM 554, p. 9. If the group has actual medical expenses which are more than the SMD, the client has the option to verify the actual expense instead of receiving the SMD. If the verified expense minus \$35.00 is greater than the SMD, the client will receive the verified expense minus \$35.00. *Id.*

MDHHS budgeted Petitioner's medical deduction as \$[REDACTED] based on her monthly payments of \$[REDACTED] for the Medicare Part B premium and \$[REDACTED] for health/hospitalization insurance premiums (Exhibit A, p. 18). After adding these expenses together, MDHHS subtracted the \$[REDACTED] standard medical deduction, pursuant to policy. Petitioner disputed the amount that MDHHS budgeted for her medical deduction and argued that she had more expenses that she submitted to MDHHS, which were not considered. However, Petitioner failed to present sufficient proof of these additional medical expenses at the hearing. Petitioner was advised that she could submit proof of additional ongoing medical expenses to MDHHS at any time.

To calculate Petitioner's Adjusted Gross Income (AGI), MDHHS subtracted the standard deduction of \$[REDACTED] and the medical deduction of \$[REDACTED] from Petitioner's countable income of \$[REDACTED], which equals \$[REDACTED]0.

Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$[REDACTED], MDHHS testified that it considered Petitioner's verified housing expenses of \$[REDACTED] and budgeted the heat and utility standard of \$[REDACTED]. BEM 554, pp. 14-15; RFT 255, p. 1. Petitioner did not dispute these amounts. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$[REDACTED] and the heat and 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 Petitioner's AGI, or \$[REDACTED] (dropping the cents), from Petitioner's total shelter amount of \$[REDACTED] equals

██████████. Therefore, MDHHS properly determined that Petitioner's excess shelter deduction was \$██████████.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$██████████ from Petitioner's AGI of \$██████████, which equals \$██████████. A household of one with a net income of \$██████████ is entitled to receive \$██████████ per month in FAP benefits. RFT 260 (October 2022), p. 15.

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 determined 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

Via-Electronic Mail :

DHHS
Corlette Brown
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227
**MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov**

Interested Parties
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

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