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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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Date Mailed: March 30, 2023
MOAHR Docket No.: 23-000800
Agency No.: 123632973
Petitioner: Mohammad Nahar

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 March 22, 2023 via teleconference. Petitioner appeared and represented himself. Valarie Foley, Hearings Facilitator, represented 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. Petitioner was an ongoing recipient of FAP benefits.
2. On January 18, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that his FAP benefit rate decreased to \$743.00 per month for a household of six, effective February 1, 2023 through September 30, 2023 (Exhibit A, pp. 13-14). MDHHS budgeted \$2,395.00 for the household's monthly earned income and \$410.00 for self-employment income (Exhibit A, p. 14).
3. On February 16, 2023, Petitioner submitted a Semi-Annual Contact Report to MDHHS (Exhibit A, pp. 10-12). The Semi-Annual Contact Report indicated that MDHHS was budgeting \$2,805.00 for the household's monthly income (Exhibit A,

p. 11). Petitioner indicated that the household income had not changed by more than \$125.00 (Exhibit A, p. 11).

4. On February 16, 2023, Petitioner filed a Request for Hearing to dispute the reduction in his FAP benefit rate (Exhibit A, pp. 6-8).

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' decision to reduce his FAP benefit rate. MDHHS stated that the reduction was due to information that it received that a household member no longer lived in the home and the information it had regarding the household's income at the time.

To determine FAP group composition, MDHHS considers (i) who lives together; (ii) the relationships of the people who live together; (iii) whether the people living together prepared food together; and (iv) whether the person resides in a special living situation which requires the consideration of other factors. BEM 212 (January 2022), p. 1. To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the household must be considered. BEM 500 (April 2022), 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 (October 2022), p. 1. A prospective income determination is the best estimate of income expected to be received in a particular month. *Id.* MDHHS is required to seek input from the client whether possible to determine the best estimate. *Id.*

MDHHS determined that Petitioner had a household of six after receiving information that a household member moved out of the house. Petitioner did not dispute the determination regarding his household size. Regarding household income, MDHHS budgeted \$2,395.00 for the household's earned income and \$410.00 for the household's self-employment income, bringing the total household income to \$2,805.00. Petitioner disputed this amount, stating that the \$410.00 in self-employment was based on income from a lawncare service that he was no longer receiving. Petitioner testified

that he informed MDHHS of this change. MDHHS denied receiving notice of the change. At the hearing, Petitioner did not provide specifics regarding how and when he informed MDHHS that the self-employment income had ended. Additionally, on February 16, 2023, Petitioner reported to MDHHS on the Semi-Annual Contact Report that the household's budgeted income of \$2,805.00 had not changed by more than \$125.00. Based on the evidence presented, MDHHS properly budgeted the household's income based on the information it had at the time.

Accordingly, MDHHS satisfied its burden of showing that it properly budgeted the income for Petitioner's household. Although Petitioner disputed the amount of income that MDHHS budgeted, he did not present sufficient evidence to show that he informed MDHHS of the change in income. Clients must report changes in income to MDHHS in a timely manner, pursuant to BAM 105 (April 2022), pp. 11-13. Petitioner did not dispute any other factors that MDHHS used to determine his FAP benefit rate, such as applicable deductions.

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
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