



GRETCHEN WHITMER
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: April 12, 2023
MOAHR Docket No.: 23-001271
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 April 5, 2023. The Petitioner appeared and was represented by her husband and household member, ██████████. Omed Ali facilitated the translation of the hearing from English to Arabic. The Department of Health and Human Services (MDHHS) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine their monthly FAP benefit amount?

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 for a group size of six, consisting of her four minor children, her husband, and herself.
2. On June 7, 2022, Petitioner timely submitted to MDHHS a New Hire Report and paystubs regarding ██████████'s (Husband) employment income (Exhibit A, pp. 8-10). MDHHS failed to update Petitioner's FAP budget with this income information.
3. On an unknown date, MDHHS updated Petitioner's household budget with the income information from the New Hire report to determine Petitioner's monthly FAP benefit amount.

4. On February 1, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that her monthly FAP benefit amount had decreased to \$487.00 monthly, effective March 1, 2023 (Exhibit A, pp. 6-7).
5. On March 6, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the monthly amount of FAP benefits that she is eligible to receive (Exhibit A, pp. 3-7).

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 her monthly FAP benefits. Subsequent to the request for hearing, MDHHS re-evaluated Petitioner's case and determined her household to be eligible for \$669.00 in monthly FAP benefits.

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.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of six, with no senior (over 60 years old), disabled or disabled veteran (S/D/V) group members. Petitioner confirmed this was correct.

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. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (November 2021) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is

determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505 pp. 8-9.

Petitioner's husband is paid \$[REDACTED] twice per month from employment. Petitioner and Husband confirmed that this amount is correct. The income that Husband receives during the submitted pay periods, when converted to a standard monthly amount as discussed, totals \$[REDACTED]. Therefore, MDHHS acted in accordance with policy in calculating Petitioner's earned income amount.

Petitioner confirmed that the household receives no self-employment income or unearned income. Therefore, MDHHS properly calculated Petitioner's household income amount.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (July 2021) p. 1. For groups without a S/D/V member, such as Petitioner's, MDHHS considers the following expenses: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, and a capped excess shelter expense. BEM 554, p. 1.

MDHHS will reduce the gross countable earned income by 20 percent, known as the earned income deduction. BEM 550 (January 2022), p.1. MDHHS correctly determined Petitioner is entitled to an earned income deduction of \$774.00.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. MDHHS used the standard deduction for a group size of six, effective October 1, 2022, of \$258.00. RFT 255 (October 2022), p. 1. Petitioner confirmed that the household does not pay childcare or child support expenses. Therefore, MDHHS properly calculated Petitioner's deductions.

MDHHS testified that it calculated Petitioner's housing expenses from the report of \$1,400.00 in rent and responsibility for paying gas and electricity. Petitioner was credited with a standard heating/utility (h/u) credit of \$620.00. 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. In Petitioner's case, this results in \$601.00. This is less than the shelter maximum of \$624.00. MDHHS used \$605.00 as Petitioner's excess shelter deduction. While it is unclear how this amount was calculated, since it benefits Petitioner to use this slightly higher amount, the error is ultimately harmless.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, MDHHS properly determined Petitioner's adjusted gross income to be \$[REDACTED]. Petitioner's adjusted gross income subtracted by the \$605.00 excess shelter deduction results in a net income of \$[REDACTED]. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size.

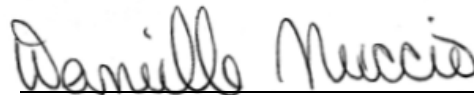
Based on Petitioner's net income and group size of six, Petitioner's FAP benefit issuance is \$669.00. As discussed, while the Notice of Case Action issued on February 1, 2023 states that Petitioner was eligible for \$487.00 in monthly FAP benefits, that was subsequently updated to \$669.00, with no loss of benefits. Therefore, MDHHS acted in accordance with policy in determining Petitioner's monthly FAP benefit amount of \$669.00.

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 monthly FAP benefit amount.

DECISION AND ORDER

Accordingly, MDHHS' 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-Wayne-19-Hearings
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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