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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: September 6, 2023
MOAHR Docket No.: 23-004577
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 31, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Jailen Rutledge, specialist, and Juan Amaya, supervisor.

ISSUE

The issue is whether MDHHS properly determined 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. As of July 2023, Petitioner was an ongoing recipient of FAP benefits.
2. As of July 2023, Petitioner was over the age of [REDACTED] and received gross monthly Retirement Survivors, Disability Insurance (RSDI) of \$[REDACTED], Supplement Security Income (SSI) of \$[REDACTED], and Supplemental Security Payments (SSP) averaging \$[REDACTED].
3. As of July 2023, Petitioner had no child support, dependent care, or reported medical expenses.
4. As of July 2023, Petitioner reported to MDHHS monthly housing expenses of \$166 and only a telephone expense.

5. On July 15, 2023, MDHHS determined Petitioner to be eligible for \$54 in monthly FAP benefits beginning August 2023.
6. On July 28, 2023, Petitioner verbally requested a hearing to dispute FAP eligibility beginning August 2023.

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 FAP eligibility for August 2023.¹ Exhibit A, pp. 3-5. A Notice of Case Action dated July 15, 2023, stated that Petitioner's FAP eligibility would decrease to \$54 beginning August 2023.² Exhibit A, pp. 7-11.

BEM 556 outlines the factors and calculations required to determine a client's net income for purposes of FAP benefits. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget pages listing all factors and calculations. Exhibit A, pp. 17-18. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a group size including only Petitioner.³ Petitioner did not dispute the benefit group.

MDHHS factored \$948 for Petitioner's unearned income. The total derived from gross monthly amounts of RSDI (\$■■■■), SSI (\$■■■■), and SSP (\$■■■■). For FAP benefits, gross RSDI is countable. BEM 503 (April 2019) p. 29. For FAP, MDHHS is to count a gross SSI benefit. BEM 503 (January 2020) p. 34. For FAP, MDHHS is to count a gross SSP benefit. BEM 503 (January 2020) p. 36. Adding Petitioner's gross RSDI, SSI, and SSP results in \$■■■■ in countable income.

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).

¹ Clients may verbally request hearing to dispute FAP eligibility (see BAM 600).

² The notice stated that the cause of the reduction was a change in shelter credits. MDHHS explained that Petitioner was no longer eligible for a heating/cooling credit. To ensure that Petitioner's FAP eligibility was correct, it is apt to examine the full FAP budget.

³ See BEM 212 for FAP group composition policy.

It was not disputed that Petitioner was aged and/or disabled. Petitioner acknowledged having no child support, dependent care, or medical expenses. MDHHS properly calculated Petitioner's non-shelter expenses to be \$0.

Petitioner's FAP benefit group size justifies a standard deduction of \$193 (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 group's adjusted gross income. Subtracting the standard deduction (\$193) and countable non-shelter expenses (\$0) from the group's countable income (\$[REDACTED]) results in an adjusted gross income of \$[REDACTED].

Petitioner reported to MDHHS in July 2023 (after a recent move) that her housing expenses were \$166 per month.⁴ MDHHS credited Petitioner with a standard telephone deduction of \$30 (see RFT 255). Petitioner did not allege having additional utility obligations.⁵ Adding Petitioner's housing expenses and utility credits results in a total shelter obligation (housing + utilities) of \$196.

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 \$0.

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 in policy is used to determine the proper FAP benefit issuance.⁶ RFT 260 (October 2022) pp. 1-5. Based on the group size and net income, Petitioner's proper FAP issuance for August 2023 is \$54: the same amount calculated by MDHHS. It is found that MDHHS properly determined 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 determined Petitioner to be eligible for \$54 in FAP benefits beginning August 2023.

⁴ During the hearing, Petitioner reported an increase in housing expenses occurring after she requested a hearing. Petitioner's reporting may affect future FAP eligibility but has no impact on the determination for August 2023.

⁵ Petitioner testified her telephone obligation exceeds \$30; however, Petitioner is only entitled to the standard credit regardless of her actual utility expenses.

⁶ FAP eligibility can also be calculated by multiplying the group's net income by 30% and subtracting the product from the maximum FAP issuance amount for the group.

The actions taken by MDHHS are **AFFIRMED**.

CG/mp


Christian Gardocki
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-Kalamazoo-Hearings
D. Sweeney
M. Holden
MOAHR
BSC3

Via-First Class Mail :

Petitioner


MI