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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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ACTING DIRECTOR

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Date Mailed: December 21, 2023
MOAHR Docket No.: 23-007827
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 12, 2023. Petitioner appeared and represented himself. Danielle Moton, Assistance Payments Worker, 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. Petitioner was an ongoing recipient of FAP benefits.
2. On August 22, 2023, Petitioner submitted a FAP Renewal to MDHHS, reporting seven household members, including ██████████ (Son), age ██████ (Exhibit A, pp. 14-15).
3. On October 20, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that he was approved for FAP benefits in the amount of \$██████████ per month for a household of six (Exhibit A, p. 6). The notice indicated that two household members had been registered for work due to participate in the FAP program (Exhibit A, p. 7).

4. On October 31, 2023, Petitioner requested a hearing regarding his FAP benefits (Exhibit A, p. 3).

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 \$[REDACTED] per month in FAP benefits for a household of six. Petitioner disputed MDHHS' determinations regarding his household size, work registration requirements and the calculation of his housing expenses.

Regarding Petitioner's household size, MDHHS testified that Son was excluded from the group as an ineligible student in October 2021. For the purposes of FAP, beneficiaries are in student status if they are age 18 through 49 and enrolled half-time or more in a regular curriculum at a college or university that offers degree programs. BEM 245 (July 2023), pp. 3-4. In order for beneficiaries in student status to be eligible for FAP, they must meet one of the criteria listed in BEM 245, pp. 4-6.

Petitioner testified that Son was a full-time college student and that he was not working. No evidence was presented that Son's circumstances changed since MDHHS' excluded him from the group in October 2021. No evidence was presented that Son met the criteria for eligible student listed in BEM 245. Therefore, the record reflects that MDHHS properly excluded Son from the FAP group as an ineligible student. Given that Son was excluded from the group due to student status, MDHHS properly determined that Petitioner had a FAP group of six.

Regarding the work registration requirements, the Notice of Case Action indicated that two members of the household had been registered for work due to participation in FAP (Exhibit A, p. 7). In order to receive FAP benefits, non-deferred adults must comply with certain work requirements. BEM 230B (January 2018), p. 2. Non-deferred adults must be registered for work and be informed of work requirements. *Id.* Non-deferred adults who are already working may not voluntarily quit a job of 30 hours or more per week without good cause or voluntarily reduce hours of employment below 30 hours per week without good cause. *Id.* Non-deferred adults who are not working or are working less than 30 hours per week must: provide the state agency or its designee with sufficient information

regarding employment status or availability for work, accept a valid offer of employment, and participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits. *Id.* In this case, MDHHS testified that no negative action had been taken based on work registration and that there had been no work-related disqualification. Because there had been no negative action regarding work requirements, the issue is not ripe for judicial review and the undersigned Administrative Law Judge lacks jurisdiction to make a determination on the matter. Petitioner may exercise his hearing rights if MDHHS pursues a negative action against the FAP group on this basis.

In determining Petitioner's FAP benefit rate of \$[REDACTED] per month, MDHHS budgeted \$[REDACTED] in earned income for the household. Petitioner did not dispute this amount. Petitioner disputed the calculation of his housing costs, which MDHHS budgeted as \$1,774.92 per month (Exhibit A, p. 7). MDHHS testified that the housing costs were based on the information Petitioner reported to MDHHS and represented a mortgage payment of \$1,380.00 per month, an annual insurance payment of \$1,177.00 and annual property taxes of \$[REDACTED]. Petitioner did not dispute these amounts but testified that he thought that his annual property taxes were going to decrease. Petitioner was advised that a decrease in property taxes is a change that he should report to MDHHS, if and when it happens.

The record shows that MDHHS properly calculated Petitioner's housing expenses in the FAP budget. Petitioner did not dispute any of the other amounts that MDHHS relied on in determining his FAP benefit rate. A FAP group of six with a monthly income of \$[REDACTED] after deductions is eligible for \$[REDACTED] in FAP benefits. RFT 260 (October 2023), p. 16. Therefore, 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 the Department acted in accordance with Department policy when it determined Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

LJ/



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
Tara Roland 82-17
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Interested Parties
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Via-First Class Mail :

Petitioner
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