



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
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Date Mailed: November 28, 2023
MOAHR Docket No.: 23-007083
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 22, 2023. Petitioner appeared and represented herself. 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 her monthly amount of FAP benefits?

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 for a group size of five, consisting of her four minor children and herself. Petitioner's FAP group contains a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
2. Petitioner's minor daughter, [REDACTED] (Daughter), receives \$ [REDACTED] per month in Supplemental Security Income (SSI) and \$ [REDACTED] per month in State SSI Payments (SSP) benefits.
3. Petitioner's minor son, [REDACTED] (Son), receives \$ [REDACTED] per month in SSI and \$ [REDACTED] per month in SSP benefits (Exhibit A, pp. 25-27).
4. Petitioner receives \$ [REDACTED] per month in child support.
5. Petitioner did not report paying any dependent care expenses.

6. Petitioner did not submit proof of any medical expenses to MDHHS.
7. Petitioner currently does not pay housing or utility expenses and pays for her phone expenses.
8. On October 18, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that she was approved to receive \$630.00 in monthly FAP benefits for a group size of five, effective November 1, 2023 (Exhibit A, pp. 14-19).
9. On October 19, 2023, MDHHS received a timely submitted hearing request from Petitioner regarding the monthly amount of FAP benefits she was approved to receive and regarding the Medicaid (MA) coverage her child receive (Exhibit A, pp. 3-13).

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 amount. In her request for a hearing, Petitioner also appealed the MA coverage her children receive. Shortly after the hearing commenced, Petitioner testified that she now understood the coverage that her children receive and wished to withdraw her hearing request regarding MA. Therefore, the MA hearing request will be dismissed.

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. The Notice of Case Action issued to Petitioner on October 18, 2023 listed the calculations to determine Petitioner's FAP eligibility (see Exhibit A, pp. 15-16). During the hearing, all relevant budget factors were discussed with Petitioner.

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. Petitioner receives unearned income from SSI, SSP, and child support. SSI is a benefit administered by the Social Security Administration. SSI is a means-tested program that can be received based on age, disability, or blindness. Daughter and Son each receive

\$ [REDACTED] in monthly SSI income (see Exhibit A, pp. 25-34). For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$ [REDACTED]. BEM 503, pp. 36-37; BEM 660 (October 2021), pp. 1-2; RFT 248 (January 2022), p. 1. MDHHS counts the gross benefit amount of SSI and SSP as unearned income. BEM 503 (January 2023), pp. 29, 35, 36. Additionally, Petitioner receives child support on behalf of one child in the amount of \$ [REDACTED] per month. Child support income is considered unearned income. BEM 503, p. 6. When calculating child support income, MDHHS uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505 (October 2023), pp. 4-5. If there are known changes that will affect the amount of the payments in the future, MDHHS will not use the previous three months. BEM 505, p. 4. Court-ordered child support may be either certified or direct. BEM 503, p. 6. Certified support is retained by the state due to the child's Family Independence Program (FIP) activity. BEM 503, p. 6. Direct support is paid to the client. BEM 503, p. 6. For FAP cases, certified support is excluded from the client's income. BEM 503, p. 7. Direct support is included as income. BEM 503, p. 9. In this case, MDHHS relied upon information for a Consolidated Inquiry search to calculate the amount of child support income that Petitioner receives. Petitioner confirmed the amounts MDHHS budgeted are what she receives each month. Therefore, MDHHS acted in accordance with policy in determining that Petitioner receives \$ [REDACTED] total in monthly unearned income. Petitioner confirmed that the household receives no other income. Therefore, MDHHS properly determined the total household income to be \$ [REDACTED].

MDHHS uses certain expenses to determine the net income for FAP eligibility and benefit levels. BEM 554 (April 2023) p. 1. For groups containing S/D/V members, such as Petitioner's, MDHHS considers: a standard deduction, an earned income deduction for any earned income, childcare, court-ordered child support and arrearages paid to non-household members, medical expenses above \$35.00 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554, p. 1.

The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. MDHHS properly used the standard deduction for a group size of five, effective October 1, 2023, of \$244.00. RFT 255 (October 2023), p. 1.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. Petitioner did not submit for consideration out of pocket medical expenses. Petitioner was advised that she can submit medical expenses to MDHHS in the future for consideration in Petitioner's household budget. Since Petitioner did not submit medical expenses for consideration, MDHHS properly counted Petitioner's medical expenses to be \$0.00.

Petitioner confirmed that she does not pay any dependent care expenses or child support. Therefore, MDHHS properly counted the group's non-shelter expenses to be \$244.00.

MDHHS testified that it calculated Petitioner's housing expenses from her report of not paying rent or a mortgage and responsibility for paying for her phone bill. A FAP group which has no heating/cooling expense but has a responsibility to pay for a traditional land-line service, cellular phone service including per-minute or per-call service and voice over Internet protocol (VoIP) must use the telephone standard. The standard covers only the telephone expense. BEM 554, p. 23. MDHHS properly included the \$31.00 telephone standard in Petitioner's budget. 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 this case, that results in a negative number, so Petitioner's excess shelter amount is \$0.00.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; because Petitioner does not have an excess shelter deduction results in \$ [REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 25. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$630.00; the same issuance amount that was calculated by MDHHS. Therefore, MDHHS properly determined Petitioner's FAP eligibility.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP budget and determined Petitioner to be eligible for \$630.00 in monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

Petitioner's hearing request for MA is **DISMISSED**.

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 :

Interested Parties

MDHHS-Wayne-19-Hearings
N. Denson-Sogbaka
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Via-First Class Mail :

