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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: March 8, 2024
MOAHR Docket No.: 24-001109
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 March 7, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly calculate 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 FAP recipient with a benefit rate of \$52.00 monthly.
2. On January 3, 2024, the Department received Petitioner’s completed Redetermination.
3. Petitioner has the following verified wages from employment within the 30-days prior to submission of her Redetermination:

December 8, 2023	\$ [REDACTED]
December 15, 2023	\$ [REDACTED]

December 22, 2023 \$ [REDACTED]
December 29, 2023 \$ [REDACTED]

4. On January 4, 2024, the Department issued a Notice of Case Action to Petitioner advising her that she was eligible for \$23.00 in FAP benefits per month effective February 1, 2024 based upon a group size of one with \$ [REDACTED] in earned income, the \$198.00 standard deduction, housing costs of \$950.00, and the heat and utility standard deduction (H/U) of \$680.00.
5. On February 2, 2024, the Department received Petitioner's request for hearing disputing the Department's calculation of her FAP benefit rate.

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.

In this case, Petitioner disputes the Department's calculation of her FAP benefit rate. To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. The Department 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 2023), p. 1. In prospecting income, the Department 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, pp. 4-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income which is received on a weekly basis is averaged and multiplied by 4.3. BEM 505, p. 8-9. After averaging Petitioner's income and multiplying by 4.3 for the 30 days of income prior to the Redetermination, Petitioner's standardized income is \$ [REDACTED] (after dropping the cents) and was properly calculated by the Department.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner's group does not include disabled or aged individuals. Therefore, she is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- 20% earned income deduction

BEM 550 (April 2023), pp. 1; BEM 554 (February 2024), p. 1; BEM 556 (January 2023), pp. -6.

Petitioner is eligible for the standard deduction of \$198.00. RFT 255 (October 2023), p. 1; BEM 556, p. 4. She also receives the 20% earned income deduction of \$441.00. No evidence was presented that Petitioner has dependent care or child support expenses. Each of these expenses is deducted from Petitioner's gross income to equal her Adjusted Gross Income (AGI) of \$[REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner's housing costs to any of the applicable standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner is responsible for housing expenses of \$950.00 per month in addition to her heat and electric expenses. The heat and utility standard deduction (H/U) of \$680.00 covers all heat and utility costs including cooling except actual utility expenses (repairs or maintenance). BEM 554, p. 16. When a client is not responsible for heating and/or cooling costs, the client may receive utility standard deductions for non-heat electric, water and/or sewer, telephone, cooking fuel, and trash as applicable. BEM 554, p. 22-25. The Department is required to annually review these standards and make adjustments to reflect changes in costs. 7 CFR 273.9(d)(6)(iii)(B). The expenses and factors outlined here are the only expenses considered for purposes of calculating the FAP budget and determining eligibility. After each item is considered, Petitioner's total housing cost is added together (\$1,630.00) and reduced by 50% of Petitioner's AGI (\$[REDACTED]) resulting in an excess shelter cost of \$848.00. *Id.* The maximum excess shelter deduction for groups that do not contain a senior, disabled person, or disabled veteran is \$672.00. RFT 255, p. 1; BEM 544, p. 1; BEM 556, p. 6. Therefore, Petitioner is provided the maximum excess shelter deduction of \$672.00.

Next, Petitioner's excess shelter cost is deducted from her AGI to equal her Net Income, of \$[REDACTED]. *Id.* A review of the Food Assistance Issuance Table shows that Petitioner is eligible for \$23.00 in FAP benefits for a group size of one which was properly calculated by the Department. BEM 556, p. 6; RFT 260 (October 2023), p. 21.

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

AMTM/cc



Amanda M. T. Marler
Administrative Law Judge

