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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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DIRECTOR

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[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: August 8, 2024
MOAHR Docket No.: 24-007346
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 1, 2024, via teleconference. Petitioner appeared and represented herself. Camera Jackson, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-17.

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 April 15, 2024, Petitioner reported that her earned income would end on May 2, 2024 (Exhibit A, p. 5).
3. On June 10, 2024, Petitioner requested a hearing regarding her FAP benefits (Exhibit A, pp. 3-4).
4. On June 11, 2024, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit rate would increase to \$209.00 per month, beginning June 1, 2024 (Exhibit A, p. 12).

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 acknowledged that it failed to process a reported change regarding Petitioner's income timely. After Petitioner requested the hearing, MDHHS processed the change and increased her FAP benefit rate, effective June 1, 2024 ongoing. Petitioner disputed MDHHS' calculation of her FAP benefit rate for the month of May 2024. FAP beneficiaries are entitled to dispute their benefit amount whenever they believe that the amount is incorrect. BAM 600 (February 2024), p. 5.

MDHHS is required to evaluate reported changes to determine whether they affect the client's eligibility for program benefits. BAM 220 (November 2023), p. 1. The standard of promptness (SOP) is the maximum time allowed to complete a required case action. *Id.*, p. 6. For FAP, MDHHS is required to act on a change reported by means other than a tape match within ten days of becoming aware of the change. *Id.*, p. 7. Changes that result in an increase in the household's benefits must be effective no later than the first allotment issued ten days after the date the change was reported, provided any necessary verification was returned by the due date. *Id.* A supplemental issuance may be necessary in some cases. *Id.* If necessary, verification is not returned by the due date, MDHHS takes appropriate action based on what type of verification was requested. *Id.* If verification is returned late, the increase must affect the month after verification is returned. *Id.* If verification is required or deemed necessary, MDHHS must allow the household ten days from the date the change is reported to provide the verification. *Id.* The change must still affect the correct issuance month. *Id.* For example, the first benefit month occurring ten days after the date the change was reported. *Id.*

Here, Petitioner informed MDHHS on April 15, 2024 that the last day of her employment would be May 2, 2024 (Exhibit A, p. 5). MDHHS failed to act on the reported change within ten days, contrary to policy. However, after Petitioner requested the hearing, MDHHS processed the change to correct its error. Given that the change was reported on April 15, 2024, it should affect the May 2024 benefit period, pursuant to the Department policy stated above.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. BEM 500 (April 2022), pp. 1-5. To determine Petitioner's FAP benefit rate for May 2024, MDHHS testified that it used

Petitioner's actual earned income received during that month, which it verified was \$539.00 through the Work Number Report (Exhibit A, p. 6). Petitioner did not dispute that amount. Because Petitioner reported that her last day of employment was May 2, 2024, MDHHS properly verified the amount of income that she received in May and then budgeted \$0.00 in earned income for June 2024 ongoing, which led to a benefit increase. As stated above, Petitioner did not dispute the increase, effective June 1, 2024 ongoing, but disputed the amount of benefits that she received for May 2024.

In addition to earned income, MDHHS budgeted 966.00 for Petitioner's countable unearned income (Exhibit A, p. 6). Petitioner did not dispute that amount. There was no evidence of any other income available to Petitioner. Therefore, MDHHS properly determined that Petitioner's total income amount was \$1,505.00 for in May 2024.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (February 2024), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (February 2024), p. 1; BEM 556 (May 2024), p. 3. No evidence was presented that Petitioner had dependent care expenses, verified medical expenses or court-ordered child support. MDHHS budgeted a \$103.00 earned income deduction and the standard deduction for a household of one, which was \$198.00. RFT 255 (October 2023), p. 1.

To calculate Petitioner's Adjusted Gross Income (AGI), the deductions were subtracted from the countable income of \$1,505.00 to equal \$1,199.00. Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$281.00, MDHHS considered Petitioner's verified housing expenses of \$200.00 and budgeted the heat and utility standard of \$680.00. BEM 554, pp. 16-17. FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards. *Id.* Adding these amounts together equals \$880.00. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioner's AGI, or \$599.00 (dropping the cents), from Petitioner's total shelter amount of \$1,199.00 equals \$281.00. Therefore, MDHHS properly determined Petitioner's excess shelter deduction of \$281.00.

Petitioner disputed the shelter amount and argued that MDHHS should have considered her security deposit as a shelter expense for the month. Petitioner testified that she reported to MDHHS that she paid \$747.00 in shelter expenses for one month, which

represented a security deposit of \$547.00 and her ongoing monthly rental amount of \$200.00.

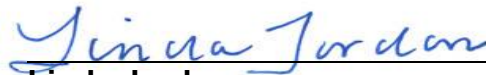
Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 14. The expense must be a continuing one. *Id.* Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. *Id.* Accordingly, MDHHS properly determined that Petitioner's housing expenses were \$200.00, because the shelter expense must be a continuing one and a security deposit is not a continuing expense.

To determine Petitioner's net income for FAP, MDHHS subtracted the excess shelter deduction of \$281.00 from Petitioner's AGI of \$1,199.00 to equal \$918.00. A household of one with a net income of \$918.00 is entitled to receive \$23.00 per month in FAP benefits. RFT 260 (October 2023), p. 13. 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 calculated Petitioner's FAP benefit rate.

DECISION AND ORDER

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

LJ/pt



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:

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Rolando Gomez
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Interested Parties
BSC2
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N Denson-Sogbaka
MOAHR

Via-First Class Mail:

Petitioner
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