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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

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Date Mailed: January 6, 2025
MOAHR Docket No.: 24-013159
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 by telephone on January 2, 2025. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Rosemary Molsbee-Smith, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective November 1, 2024?

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 is an ongoing recipient of FAP for a two-person FAP group that includes herself and her adult daughter (Daughter).
2. Petitioner is a recipient of Supplemental Security Income (SSI) of \$292 per month and Retirement, Survivors, and Disability Insurance (RSDI) income of \$671 per month. Petitioner also receives a quarterly State SSI Payment (SSP) of \$42.
3. Daughter is employed by ██████████ ██████████ (Employer) and paid bi-weekly. (Exhibit A, pp. 13 – 14).

4. On October 3, 2024, the Department received a completed redetermination application from Petitioner that was due by October 31, 2024 for the November 1, 2024 ongoing benefit period. (Exhibit A, pp. 6 – 9).
5. On November 18, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) that approved Petitioner for FAP benefits in the amount of \$163 per month for a two-person FAP group effective November 1, 2024 ongoing. (Exhibit A, pp. 17 – 21).
6. On November 22, 2024, the Department received a verbal request for hearing from Petitioner, disputing the amount of her FAP benefits. (Exhibit A, p. 4; p. 24, Serial No. 102).

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 amount of her monthly FAP benefit. The Department approved Petitioner for FAP benefits of \$163 per month for her two-person FAP group effective November 1, 2024.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department begins with the client's countable earned and unearned income. BEM 500 (April 2022), pp. 1 – 5. For SSI, RSDI, and SSP, the Department counts the gross benefit amount as unearned income. BEM 503 (October 2024), pp. 30 – 32, 35 – 37. To budget earned income, the Department prospect the income based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (October 2023), pp. 1, 3 – 4, 6. The Department must prospect an individual's earned income if income is received on a regular schedule but varies from check to check. BEM 505, pp. 2 – 4. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

The Department introduced a FAP net income budget that established that the Department budgeted \$[REDACTED] in gross earned income and \$977 in gross unearned income for Petitioner's FAP group. (Exhibit A, p. 15).

The Department and Petitioner agreed that Petitioner receives \$671 per month in RSDI, and there was no dispute the Department issues Petitioner \$42 per quarter in SSP. The Department testified that the State Online Query (SOLQ) reflects that Petitioner also receives \$671 gross per month in SSI. Although Petitioner testified that a portion of her SSI is retained by the Social Security Administration (SSA) to repay an overpayment to it, she did not dispute the gross amount of her SSI. Therefore, the Department properly determined that Petitioner had unearned income of \$977 per month.

There was also no dispute that Daughter has earned income from Employer and is paid bi-weekly. The Department explained that it used paystubs provided by Petitioner and added together Daughter's gross earnings from September 13, 2024 and September 27, 2024, divided the total by two to determine Daughter's average bi-weekly earnings, and multiplied that amount by 2.15 to determine Daughter's standardized monthly earnings. A review of the paystubs utilized by the Department confirms that the Department properly determined Daughter's gross earned income was \$[REDACTED]

Once countable income is calculated, the Department must determine which deductions are available to the Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is disabled, Petitioner's FAP group is considered a senior/disabled/veteran (SDV) household. BEM 550, p. 1. Households with SDV members and earned and unearned income may be eligible for the following deductions:

- A 20% earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (July 2024) p. 1; BEM 556 (October 2024) pp. 3 – 6.

There was no dispute that Petitioner was entitled to, and received, a \$204 standard deduction from her countable income based on her two-person FAP group size. BEM 550, p. 1; RFT 255 (October 2024). Petitioner testified that she did not report any medical expenses or health insurance premiums in excess of \$35, any dependent care expenses, or court ordered child support expenses, and no deductions for those expenses are reflected on the budget.

Next, the Department determines any excess shelter expense deduction. To start, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting the earned income deduction, standard deduction, dependent care expenses, medical expenses for SDV members, and court ordered child support payments made by a member of the group from the countable income. Based on the group's earned income of \$██████ and unearned income of \$977, Petitioner's gross income was \$2,641. Once the earned income deduction of \$333 and standard deduction of \$208, the only deductions Petitioner is eligible for are applied, Petitioner's AGI is \$2,104.

To complete the excess shelter deduction calculation, the Department reviews Petitioner's housing and utility expenses, if any. The Department testified, and Petitioner agreed, that Petitioner had a housing expense of \$1,200 per month and was responsible for payment of her heat and internet. When a FAP group has heating and other utility expenses, separate from the mortgage payment, it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. The h/u standard amount is \$664 (RFT 255) and the Department properly budgeted Petitioner's housing expense and used the h/u standard amount when calculating Petitioner's excess shelter expense. If the FAP group pays for internet, it is also entitled to a standard deduction for that expense in the amount of \$50, and the Department properly used the internet standard amount when calculating Petitioner's excess shelter deduction. BEM 556, p. 5; RFT 255.

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount and then subtract 50% of Petitioner's AGI from the total shelter amount. BEM 556, pp. 5 – 6. This determines Petitioner's excess shelter deduction. The total of Petitioner's monthly housing of \$1,200, h/u standard of \$664, and internet standard of \$50 was \$1,914. When 50% of Petitioner's \$2,104 AGI, in the amount of \$1,052, was subtracted from the total shelter amount of \$1,914, Petitioner's excess shelter deduction was \$862, and the Department properly budgeted that deduction. When Petitioner's excess shelter deduction of \$862 was subtracted from her AGI of \$2,104, Petitioner's net income was \$1,242. The Department's calculations were made consistent with policy.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table found in RFT 260. Based on Petitioner's two-person FAP group size and net income of \$1,242, the Department properly determined Petitioner's monthly benefit amount of \$163 for November 2024 ongoing. RFT 260 (October 2024), p. 18.

During the hearing, the Department testified that after her request for hearing, Petitioner reported that Daughter's earnings decreased and provided verification to the Department in support. As a result, the Department issued a NOCA to Petitioner that increased her monthly FAP benefit effective January 1, 2025. Petitioner expressed that

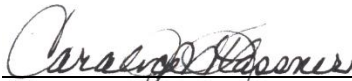
she disagreed with the increased amount and was informed that she must submit a new request for hearing to dispute her FAP benefit amount effective January 1, 2025.

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 amount effective November 1, 2024 ongoing.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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

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Interested Parties

BSC4

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N. Denson-Sogbaka

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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]

[REDACTED]

[REDACTED], MI [REDACTED]