



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 23, 2019  
MOAHR Docket No.: 19-007857  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 August 20, 2019, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Sara Terreros, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefit amount?

**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.
2. In June 2019, Petitioner completed a mid-certification review related to his FAP benefit case.
3. On June 13, 2019, Petitioner submitted verification of his housing expense (Exhibit A, pp. 10-11).
4. Petitioner was the sole member of his household.
5. Petitioner had Retirement, Survivors and Disability Insurance (RSDI) benefits in the gross monthly amount of \$1,396.

6. On July 8, 2019, the Department sent Petitioner a Notice of Case Action informing him that he was approved for FAP benefits in the monthly amount of \$30 effective August 1, 2019, ongoing (Exhibit A, pp. 5-6).
7. On [REDACTED], 2019, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 completed a mid-certification review in June 2019. Petitioner submitted verification of his housing expense on June 13, 2019. Petitioner's reported housing expense was less than what was previously budgeted. As a result, the Department redetermined Petitioner's FAP eligibility. The Department determined Petitioner was eligible for FAP benefits in the monthly amount of \$30. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 7-9).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department counts a client's gross RSDI benefit amount as unearned income. BEM 503 (January 2019), p. 28. According to the budget provided, the Department determined Petitioner had unearned income in the monthly amount of \$1,396. The Department testified that Petitioner's gross RSDI benefit amount was \$1,396. Petitioner confirmed the figure was correct. Therefore, the Department properly calculated Petitioner's standard monthly income amount.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a senior/disabled/veteran (SDV). BEM 550. Thus, the group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.

- Standard deduction based on group size.
- Medical deduction.

BEM 554; BEM 556 (August 2017), p. 1; BEM 556 (April 2018), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$158. RFT 255 (October 2018), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support expenses or out-of-pocket medical expenses. Therefore, the budget properly excluded any deduction for dependent care, child support or medical expenses.

In calculating the excess shelter deduction of \$700, the Department stated that it considered Petitioner's verified housing expense of \$776 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$543. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income.

At the hearing, Petitioner testified that his monthly mortgage payment was \$787 per month, which includes amounts held in escrow for his property taxes and insurance. 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. 13. The expense must be a continuing one. BEM 554, p. 13.

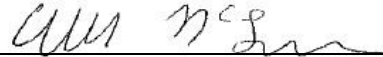
According to the documents provided by Petitioner, his ongoing payment is \$776, which includes amounts held in escrow for taxes and insurance (Exhibit A, p. 10). Petitioner was assessed fees as well. Per the loan statement, the fees were for a late payment (Exhibit A, p. 11). Per policy, fees for late payments are not included as part of a housing expense. Therefore, the Department used the correct figure for Petitioner's housing expense. As it follows, Petitioner's excess shelter deduction was properly calculated at \$700 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$1238. Petitioner's adjusted gross income subtracted by the \$700 excess shelter deduction results in a net income of \$538. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance based on the net income and group size. Based on Petitioner's net income and group size, Petitioner's FAP benefit issuance is \$30. Therefore, the Department properly calculated Petitioner's FAP benefit amount.

**DECISION AND ORDER**

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

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**Ellen McLemore**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**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 Email:**

MDHHS-Kent-1-Hearings  
M. Holden  
D. Sweeney  
BSC3- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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