



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: July 18, 2019  
MOAHR Docket No.: 19-005625  
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, an in-person hearing was held on July 16, 2019, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

**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. On [REDACTED], 2019, Petitioner submitted a redetermination related to her FAP benefit case (Exhibit A, pp. 24-31).
3. Petitioner had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the monthly amount of \$704.50 (Exhibit A, p. 9).
4. Petitioner had unearned income in the form of a pension (Exhibit A, p. 12).

5. On May 2, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that she was eligible for FAP benefits in the monthly amount of \$52 effective June 1, 2019 (Exhibit A, pp. 20-23). The Department presented Petitioner's Benefit Issuance Summary showing that Petitioner's FAP benefits were actually approved for \$54 per month (Exhibit A, p. 37).
6. 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 was an ongoing FAP recipient. On April 30, 2019, Petitioner completed a redetermination. The Department determined that Petitioner was entitled to FAP benefits in the monthly amount of \$54. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, p. 14).

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.

According to the budget provided, Petitioner had unearned income in the standard monthly amount of \$1,219. The Department presented verifications submitted by Petitioner of her RSDI benefits in the monthly amount of \$703.50 (Exhibit A, p. 9) and her pension in the monthly gross amount of \$516 (Exhibit A, p. 12). The two figures total \$1,219.

At the hearing, Petitioner indicated that her pension payment is now \$530. Petitioner also highlighted that she indicated as such in her redetermination (Exhibit A, p. 28). Although the Department used the incorrect figure, the error was in Petitioner's favor. Therefore, the error was harmless.

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 (August 2017); 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 or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

As Petitioner qualifies as an SDV member, the group is entitled to deductions for verifiable medical expenses that the SDV member incurs in excess of \$35. BEM 554, p. 1. The Department provided Petitioner with a \$101 ongoing medical expense. The Department testified that Petitioner is responsible for her Medicare Part B expense of \$135.50 (Exhibit A, p. 9). With the \$35 exclusion, it results in a medical expense deduction of \$101.

Petitioner's AHR argued that Petitioner's ongoing medical expense should be higher, as she has two other recurring expenses for insurance premiums. Petitioner's AHR testified that Petitioner submitted verification of a monthly premium in the amount of \$13.04 for vision insurance and a monthly premium of \$32.25 for dental insurance with her redetermination (Exhibit A, p. 34-35). The Department testified that the ongoing expenses were not included in Petitioner's FAP budget, as they were not current statements. The statements were for January 2018 through December 2018.

The Department is to verify allowable medical expenses at application and redetermination. BEM 554, p. 12. The Department must verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 12. Acceptable verification sources include current bills or statements. BEM 554, p. 12.

As policy specifically states, the verification source of medical expenses must be current. Therefore, the Department acted in accordance with policy when it did not include the insurance premiums as ongoing expenses in Petitioner's FAP budget.

Petitioner's AHR also argued that the other medical expenses that were submitted with the redetermination should have been included. The Department highlighted that Petitioner's FAP benefits were supplemented as a result of the medical expenses being budgeted. Petitioner received \$79 in FAP benefits in June 2019 and \$83 in FAP benefits in July 2019.

In calculating the excess shelter deduction of \$500, the Department stated that it considered Petitioner's verified housing expense of \$437 and that she was responsible

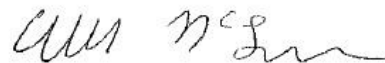
for a monthly heating expense, entitling her to the heat/utility standard of \$543. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$500 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 \$960. Petitioner's adjusted gross income subtracted by the \$500 excess shelter deduction results in a net income of \$460. 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 \$54. 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-Wayne-17-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

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

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**Authorized Hearing Rep. –  
Via First-Class Mail:**

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