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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 12, 2019  
MOAHR Docket No.: 19-006079  
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 July 8, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearing Coordinator.

### **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 May 2019, Petitioner completed a six-month review of her FAP benefit case (Exhibit A, p. 9).
3. Petitioner had income from employment (Exhibit A, pp. 12-14).
4. Petitioner's household consisted of herself and her child.
5. On May 24, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that she was approved for FAP benefits in the monthly amount of \$66 effective June 1, 2019, ongoing (Exhibit A, pp. 4-8).

6. On May 29, 2019, Petitioner submitted a request for hearing disputing the Department's calculation of her FAP benefit amount.

### **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 six-month review in May 2019, related to her FAP benefit case. Petitioner reported she had income from employment. As a result, the Department redetermined Petitioner's FAP eligibility. The Department sent Petitioner notice that she was entitled to \$66 per month in FAP benefits. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 10-11).

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 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 2017), pp. 1-2. 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. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (July 2016), pp. 6-7.

According to the budget provided, the Department determined Petitioner's standard monthly earned income amount was \$2,083. The Department presented Petitioner's pay statements which showed she was paid on April 15, 2019, in the gross amount of \$1,041.67 and on April 30, 2019, in the gross amount of \$1,041.67. Petitioner was paid

twice per month. When adding the pay statements together, it results in a standard monthly amount of \$2,083. Therefore, the Department properly calculated Petitioner's earned income.

The deductions to income on the net income budget were also reviewed. There was **no** evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (October 2015), pp. 1-2. 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.
- An earned income deduction equal to 20% of any earned income.

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

The Department will reduce the gross countable earned income by 20 percent and is known as the earned income deduction. BEM 550 (January 2017), p.1. The Department correctly determined Petitioner is entitled to an earned income deduction of \$417. Petitioner's FAP benefit group size of two 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.

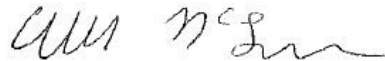
According to the budget provided, Petitioner received an excess shelter deduction of \$552. The Department did not provide the excess shelter deduction budget, but according to the Notice of Case Action issued on May 24, 2019, the Department considered a housing expense of \$1,620. The Department also considered that Petitioner was responsible for a monthly utility expenses, entitling the group to the heat/utility standard of \$543. BEM 554, pp. 14-15. When calculating the excess shelter deduction, the Department adds the total shelter amount and subtracts that figure by 50% of the adjusted gross income. Petitioner's total shelter amount (\$2,163) reduced by 50% of the adjusted gross income (\$754) is \$1,409. However, policy sets forth a maximum shelter deduction of \$552. RFT 255, p. 1. Therefore, the Department properly calculated the excess shelter deduction of \$552 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 \$1,508. Petitioner's adjusted gross income subtracted by the \$552 excess shelter deduction results in a net income of \$956. 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 \$66. 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-Macomb-36-Hearings  
M. Holden  
D. Sweeney  
BSC4- Hearing Decisions  
MOAHR

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

