



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: February 12, 2021  
MOAHR Docket No.: 20-007649  
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 February 10, 2021, from Detroit, Michigan. Petitioner was present with her daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Karen Smalls, Assistance Payments Supervisor.

**ISSUE**

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

**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. Effective January 1, 2021, Petitioner began receiving Supplemental Security Income (SSI) in the gross monthly amount of \$614. Petitioner also received a gross State SSI Payment (SSP) in the gross amount of \$14 per month.
3. On December 5, 2020, the Department sent Petitioner a Notice of Case Action informing Petitioner that her FAP benefits were being decreased to \$65 per month effective January 1, 2021, ongoing (Exhibit A, pp. 10-14).
4. 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. Effective January 1, 2021, Petitioner received an increase in her monthly SSI payment. As a result, the Department redetermined Petitioner's FAP eligibility. The Department determined Petitioner was eligible for a monthly FAP benefit amount of \$65. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 24-26).

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. For FAP benefit cases, the Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35.

Per the budget provided, the Department included \$628 in unearned income in Petitioner's FAP budget. Petitioner confirmed that she has a gross monthly SSI benefit amount of \$614 and that she receives SSP benefit in the gross monthly amount of \$14. Therefore, the Department correctly determined Petitioner's household income.

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 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$167. RFT 255 (January 2020), 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. Policy requires that medical expenses must be verified at initial application and redetermination. BEM 554, p. 11. Medical expense changes can be reported and processed during the benefit period, but the expenses must be verified. BEM 554, p. 9.

At the hearing, Petitioner stated that she does have out of pocket medical expenses. However, Petitioner stated that she has not submitted any verification of her out of pocket medical expenses. Therefore, the Department acted in accordance with policy when it did not include a medical expense deduction when determining Petitioner's FAP benefit amount.

The Department testified that Petitioner never reported any housing or utility expenses. As a result, Petitioner did not receive an excess shelter deduction in the calculation of her FAP benefit amount. The Department will allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 13. 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. Verification of a housing expense is only required if considered questionable. BEM 554, p. 14. Clients have the responsibility to report changes in circumstances that potentially affect eligibility or benefit amount to the Department. BAM 105 (July 2020), p. 12.

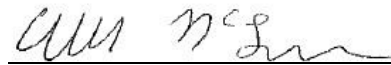
At the hearing, Petitioner testified that she has a monthly rental obligation of \$300 per month. Petitioner stated that at the time she applied for FAP benefits she did not have any rental or utility payments. Petitioner stated that she began paying rent to her parents in November 2020. Petitioner conceded that she did not report the expense to the Department. As Petitioner did not report the expense to the Department, the Department acted in accordance with policy when it did not provide Petitioner an excess shelter deduction in the calculation of her FAP benefit amount.

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 \$461. As Petitioner was not entitled to an excess shelter deduction, her net income is also \$461. 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 \$65. 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 eligibility. Accordingly, the Department's decision is **AFFIRMED**.

EM/jem



**Ellen McLemore**

Administrative Law Judge  
for Elizabeth Hertel, 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-Oakland-6303-Hearings  
BSC4-HearingDecsions  
M. Holden  
D. Sweeney  
MOAHR

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

