



4. On January 9, 2020, Petitioner completed a Mid-Certification Contact Notice indicating she had no changes in household circumstances.
5. On January 17, 2020, the Department issued another Notice of Case Action informing her that FAP benefits were decreasing to \$24.00 per month effective February 1, 2020 due to an increase in her unearned income; the telephone standard deduction was not budgeted.
6. On January 22, 2020, the Department received Petitioner's request for hearing disputing the calculation of her FAP benefit rate.
7. During the prehearing conference, it was discovered that the Department had failed to budget the telephone standard deduction for Petitioner; on February 4, 2020, the change was processed, but it did not affect Petitioner's benefit rate.

### **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 disputes the Department's calculation of her FAP benefit rate. To determine whether the Department properly calculated Petitioner's FAP benefit rate, an evaluation of the Department's budget calculations is necessary, starting with income. All countable, gross 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), p. 1. 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9.

The Department testified and Petitioner did not dispute that in February 2020, she received a gross Retirement, Survivors and Disability Insurance (RSDI) benefit of \$725.00 per month. Since her income is received on a monthly basis, no further calculation is required to standardize it.

After consideration of income, the Department considers all appropriate deductions and expenses. There was evidence presented that the Petitioner is a Senior, Disabled, or Disabled Veteran. BEM 550. Therefore, she 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 for expenses greater than \$35.00.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), pp. 3-6.

The Department budgeted \$0.00 for a child support and dependent care expense. Petitioner did not dispute that she does not have these expenses. The Department also budgeted the standard deduction of \$161.00 for a group size of one in accordance with Department policy. RFT 255 (January 2020), p. 1. Finally, Petitioner agreed that she has not submitted any medical expenses to the Department.

After consideration of all these expenses, Petitioner's Adjusted Gross Income (AGI) is \$564.00.

Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. The Department budgeted and Petitioner agrees that she has no housing expense or utility expense other than her phone. The Department admits that it erred in failing to budget Petitioner's telephone standard deduction but noted that even after it was properly budgeted, her FAP benefit rate was unaffected. The telephone standard deduction is \$30.00. RFT 255, p. 1. Once each utility standard is considered, the housing expense and utility standards are added together for a total housing expense of \$30.00. BEM 556, p. 6. Petitioner's total housing expense is then reduced by half of her AGI (\$282.00) resulting in a negative number. *Id.* Since the calculation results in a negative number, Petitioner does not have an excess shelter cost and is not eligible for an Excess Shelter Deduction. *Id.*

If Petitioner was eligible for an Excess Shelter Deduction, the deduction would then be subtracted from her AGI to achieve her Net Income. BEM 556, pp. 5-6. Since Petitioner is not eligible for the deduction, her AGI is equal to her Net Income of \$564.00. At this point, Petitioner's Net Income is compared against the Food Assistance Issuance Tables, she is eligible for \$24.00 in FAP benefits per month. RFT

260 (October 2019), p. 8. Despite the Department's errors, the Department afforded Petitioner the correct benefit rate and its errors were harmless.

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 afforded Petitioner a FAP benefit rate of \$24.00 per month effective February 1, 2020.

**DECISION AND ORDER**

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



AMTM/jaf

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**Amanda M. T. Marler**  
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

**DHHS**

Carisa Drake  
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