



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: October 16, 2020  
MOAHR Docket No.: 20-005751  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 October 14, 2020. The Petitioner appeared for the hearing and was represented by her son [REDACTED]. The Department of Health and Human Services (Department) was represented by Scharon Hailey, Eligibility Specialist, and Kiamili Dunlap, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 6, 2020, the Department received Petitioner's completed Redetermination.
2. On the same day, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate was being reduced to \$129.00 per month effective August 1, 2020 based upon a group size of two with \$1,300.00 in unearned income, a housing expense of \$439.05, the heat and utility standard deduction (H/U), the standard deduction of \$161.00, and finally that her three adult children were being excluded from the group because they purchase and prepare food separately.
3. On September 2, 2020, the Department received Petitioner's verbal request for hearing to dispute the Department's calculation of FAP benefits.

## 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 but does not dispute that her three adult children should be excluded from the FAP group. To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the client; 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. Petitioner does not dispute that her husband receives \$ [REDACTED] in gross unearned income each month. This is the only income in the household.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner's husband is a Senior, Disabled, or disabled Veteran (SDV) group member; therefore, the group is eligible for the following deductions to income:

- Dependent care expense.
- Medical expenses that exceed \$35.00
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.

BEM 550 (January 2017), pp. 1-1; BEM 554 (October 2019), p. 1; BEM 556 (July 2019), pp. 3-6.

No evidence was presented that Petitioner has medical, child, or dependent care expenses. Therefore, the Department properly budgeted these items as \$0.00. The Department also budgeted a Standard Deduction of \$161.00 in accordance with

Department policy for a group size of one. RFT 255 (January 2020), p. 1; BEM 556, p. 4.

After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) is calculated by subtracting each of these expenses from the gross income. Therefore, Petitioner's AGI is \$ [REDACTED]

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner's Housing Costs to any of the applicable standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner has a mortgage expense of \$439.05 per month. In addition, to the housing expense, the Department considers a client's utility expenses. The heat and utility standard deduction (H/U) covers all heat and utility costs including cooling except actual utility expenses (repairs or maintenance). BEM 554 (October 2019), p. 15. The Department is required to annually review standards such as the H/U and make adjustments to reflect changes in costs. 7 CFR 273.9(d)(6)(iii)(B). Effective October 1, 2019, the Department completed the review of standards as required by Federal Regulations and implemented a new H/U of \$518.00. RFT 255 (January 2020), p. 1. FAP groups that receive the H/U do not receive any other individual utility standards. *Id.* Petitioner's total housing cost is \$957.05.00 which is reduced by 50% of Petitioner's AGI (\$ [REDACTED]) to achieve her Excess Shelter Deduction of \$387.55. *Id.*

After Petitioner's Excess Shelter Deduction is calculated, it is then subtracted from her AGI to achieve her Net Income of \$ [REDACTED]. *Id.* Petitioner's Net Income is then compared against the FAP Benefit Issuance Tables for a group size of two to determine her new benefit rate of \$129.00. RFT 260 (October 2019).

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 calculated Petitioner's FAP benefit rate.

### **DECISION AND ORDER**

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

AMTM/cc



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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

**Via Email:**

MDHHS-Oakland-DistrictII-Hearings  
BSC4-HearingDecisions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner- Via USPS:**

