



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: October 13, 2020  
MOAHR Docket No.: 20-005768  
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 7, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Stephanie Lane, Assistance Payments Worker and Eligibility Specialist, and Erik Lewis, 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. Petitioner is an ongoing FAP recipient.
2. The Department completed a review of Petitioner's FAP case and discovered outdated medical expenses which were being budgeted to determine Petitioner's FAP benefit rate.
3. On June 25, 2020, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate was being reduced to \$16.00 per month for a group size of one after removal of medical expenses.
4. On August 19, 2020, the Department received Petitioner's request for hearing disputing the reduction in her FAP 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 reduction in her FAP benefit rate. To determine whether the Department properly calculated it, 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 2020), 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 agrees that she receives RSDI benefits in the amount of \$1,107.00 per month. Since RSDI benefits are received on a monthly basis, there is no need to further standardize Petitioner's household income.

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, pp. 3-6.

The Department budgeted \$0.00 for child support, dependent care, and medical expenses which Petitioner does not dispute. The change in Petitioner's FAP budget was caused by the removal of medical expenses. Petitioner agrees that she has not submitted any recent expenses and has no reason to believe that any expenses previously budgeted between 2009 and 2014 should still be considered. The Department properly budgeted the standard deduction of \$161.00 for a group size of one in accordance with Department policy. RFT 255 (January 2020), p. 1.

After consideration of all these expenses, Petitioner's Adjusted Gross Income (AGI) is \$[REDACTED]. Once the Adjusted Gross Income is calculated, the Department must then consider the Excess Shelter Deduction. Petitioner has summer property taxes totaling \$[REDACTED]. The Department did not verify Petitioner's winter property taxes. If based upon the summer property taxes alone, the Department should have budgeted a housing expense of \$28.33 per month (\$[REDACTED] months). Petitioner believes that the Department should have budgeted more than \$85.00 because she pays more than that for her property taxes. Since the Department does not have the winter tax bill, because Petitioner presented no documentation to support the value of the actual taxes paid, and because the \$85.00 budgeted by the Department is more favorable to Petitioner than what should have been budgeted, the \$85.00 will continue to be used for purposes of this decision. Petitioner does not have a homeowner's insurance premium or mortgage expense. Therefore, she has a total housing expense of \$85.00. In addition, she is responsible for her heat and electric bills. The Department properly budgeted the housing expense and afforded Petitioner the heat and utility standard deduction (H/U) of \$518.00. The H/U is provided to clients who are responsible for the cost of their heat and electric bills. BEM 554, p. 15. Individuals eligible for the H/U are not eligible for any other utility standards such as trash, water, sewer, or telephone expenses. *Id.* Once the utility standards are considered, the housing expense (\$85.00) and utility standards (\$518.00) are added together for a total housing expense of \$603.00. BEM 556, p. 5. Petitioner's total housing expense is then reduced by half of her AGI (\$473.00) resulting in an excess shelter cost of \$130.00. *Id.*

Petitioner's excess shelter cost is then subtracted from her AGI to achieve her Net Income of \$[REDACTED]. BEM 556, pp. 5-6. At this point, Petitioner's Net Income is considered against the Food Assistance Issuance Tables for a FAP benefit rate of \$16.00 per month. RFT 260 (October 2019), p. 24. The Department properly calculated Petitioner's FAP benefit rate.

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 based upon the information available at the time of the calculation.

**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-Wayne-82-Hearings  
M. Holden  
D. Sweeney  
BSC4-HearingDecisions  
MOAHR

**Petitioner- Via USPS:**

