



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: November 18, 2020  
MOAHR Docket No.: 20-005881  
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 November 16, 2020. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager.

### **ISSUE**

Did the Department properly deny Petitioner's Application for Food Assistance Program (FAP) benefits due to excess net income?

### **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 [REDACTED], 2020, the Department received Petitioner's Application for FAP benefits.
2. Petitioner receives \$2,134.00 per month in gross Retirement Survivors Disability Insurance (RSDI) benefits.
3. At the time of Application, Petitioner's wife was receiving \$ [REDACTED] bi-weekly in Unemployment Compensation Benefits (UCB).
4. On August 19, 2020, the Department issued a Notice of Case Action to Petitioner informing him that he was ineligible for FAP benefits due to excess net income based upon a group size of two with \$ [REDACTED] in unearned income, a standard deduction of \$161.00, a medical expense deduction of \$110.00 per month, a

housing expense of \$775.00 per month, and finally, the heat and utility standard deduction (H/U) of \$518.00 per month.

5. On September 15, 2020, the Department received Petitioner's request for hearing disputing the Department's denial of his FAP Application.

### **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 denial of FAP benefits. To determine whether the Department properly determined Petitioner's FAP eligibility, 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. For income received on a bi-weekly basis, the average income is multiplied by 2.15 to achieve the standardized amount. *Id.*

Petitioner receives \$2,134.00 in gross monthly RSDI benefits. Petitioner's wife receives \$ [REDACTED] in gross UCB benefits bi-weekly. Therefore, her standardized monthly income is \$ [REDACTED] ( $[REDACTED] \times 2.15 = [REDACTED]$ ) and the total household monthly gross income is \$ [REDACTED].

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, he 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 and dependent care expenses which Petitioner does not dispute. The Department also properly budgeted \$110.00 for Petitioner's Medicare Part B premium ( $\$144.50 - 35.00 = \$110.00$  rounded up to the nearest dollar). Petitioner has not submitted verification of any other medical expenses to the Department. Other medical expenses which might be considered in Petitioner's FAP budget if current and verified include, but are not limited to, prescriptions, copays, insurance premiums, hospitalization and nursing costs, dental expenses, medical supplies, and/or actual costs of transportation and lodging necessary to secure medical treatment or services. BEM 554, pp. 10-11. Finally, the Department properly budgeted the standard deduction of \$161.00 for a group size of two in accordance with Department policy. RFT 255 (January 2020), p. 1.

After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each of these expenses from his 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). The parties agree that Petitioner has a rental expense of \$775.00 per month. In addition, he is responsible for his heat, electric, and telephone bills. The Department properly 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 because the H/U is considered to be an all-encompassing standardized deduction. *Id.* The expenses outlined here are the only expenses considered for purposes of calculating the FAP budget and eligibility determination. BEM 554; BEM 556. Once the utility standards are considered, the housing expense (\$775.00) and utility standards (\$518.00) are added together for a total housing expense of \$1,293.00. BEM 556, p. 5. Petitioner's total housing expense is then reduced by half of his AGI (\$1,325.00) resulting in a negative number and therefore no excess shelter cost. *Id.*

If Petitioner had an excess shelter cost, it would then be subtracted from his AGI to achieve his Net Income. Since Petitioner has no excess shelter cost, his net income is equal to his AGI or \$2,649.90. BEM 556, pp. 5-6. At this point, Petitioner's Net Income is considered against the Net Income Limit for a group size of two, \$1,410.00. RFT 250 (October 2019), p. 1; BEM 550 (January 2017), p. 1. Petitioner's group's income is above the Net Income Limit and he is not eligible for FAP.

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 denied Petitioner's FAP Application due to excess net income.

**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-57-Hearings  
BSC4-HearingDecisions  
M. Holden  
D. Sweeney  
MOAHR

**Petitioner-Via USPS:**

