



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: January 25, 2021  
MOAHR Docket No.: 20-007407  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 January 21, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Candice Benns, Hearing Facilitator.

### **ISSUE**

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

### **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 recipient of FAP benefits. Petitioner was previously approved for FAP benefits in the monthly amount of \$[REDACTED]. (Exhibit A, pp. 5-7)
2. On or around November 6, 2020, Petitioner reported that he no longer had a shelter obligation/housing expense under his Section 8 housing voucher agreement.
3. In reviewing Petitioner's FAP case, the Department discovered that Petitioner had been approved to receive Supplemental Security Income (SSI) of \$[REDACTED] monthly.
4. On November 6, 2020, the Department sent Petitioner a Notice of Case Action advising him that effective December 1, 2020, his FAP benefits would be decreased to \$[REDACTED] monthly, as his unearned income amount and housing expenses had changed. (Exhibit A, pp.11-15).

5. On or around November 17, 2020, Petitioner verbally requested a hearing disputing the Department's action with respect to his FAP benefits and the decrease to \$█ monthly. (Exhibit A, p. 3)

### **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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, Petitioner requested a hearing to dispute the decrease in his FAP benefits to \$█ effective December 1, 2020. At the hearing, the Department testified that after processing Petitioner's reported change in housing expenses and considering his unearned income from SSI, it determined he was eligible for \$█ in monthly FAP benefits. It is noted that the Department presented evidence that Petitioner received the maximum amount of FAP benefits based on his group size of one in accordance with ESA Memo 2020-15 COVID-19 Response Emergency Food Assistance Allotment and ESA Memo 2021-03 COVID-19 Food Assistance Emergency Allotment. The Department presented a FAP EDG Net Income Results Budget which was thoroughly reviewed to determine if the Department properly calculated the amount of Petitioner's FAP benefits for the month of December 2020, ongoing. (Exhibit A, pp. 8-10).

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 2020), pp. 1 – 5. The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (September 2020), pp. 35-37. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$42; and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$14) as unearned income. BEM 503, p. 36-37; BEM 660 (October 2020), pp. 1-2; RFT 248 (January 2020), p. 1.

The budget shows that Department concluded that Petitioner had gross unearned income in the amount of \$797, which it testified consisted of \$783 in SSI and \$14 in SSP. Upon review, the unearned income was properly calculated.

The deductions to income on the net income budgets were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (October 2020), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (August 2020), p. 1; BEM 556 (January 2020), p. 1-8.

In this case, Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support or medical expenses. Therefore, the budget properly did not include any deduction for dependent care, child support or medical expenses. The Department properly applied a standard deduction of \$167 which was based on Petitioner's confirmed group size of one. RFT 255 (October 2020), p. 1. With respect to the excess shelter deduction of \$232, the Department properly applied the \$547 heat and utility standard and because Petitioner confirmed that he was not responsible for out-of-pocket housing expenses in December 2020 based on his receipt of Section 8 housing voucher, the Department properly removed the housing expenses from the excess shelter deduction budget. Although Petitioner testified that he may have a housing expense beginning in February 2021, because he did not have the expense at the time the budget was completed, the Department was correct in not considering any housing expenses. Therefore, the excess shelter deduction of \$232 was properly calculated.

Petitioner expressed disagreement with the Department's policies, in particular, those that require the Department to consider his unearned income from SSI. However, Petitioner was informed that the undersigned does not have the authority to change policy or to make any exceptions to Department policy. After further review, the Department properly determined Petitioner's net income and took into consideration the appropriate deductions to income including the standard deduction and the excess shelter deduction. Based on net income of \$█ Petitioner's one-person FAP group is eligible for \$█ in monthly FAP benefits. RFT 260 (October 2020), p. 6.

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 the amount of Petitioner's FAP benefits of \$█ for December 2020.

**DECISION AND ORDER**

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

ZB/jem

  
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**Zainab A. Baydoun**  
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-Wayne-49-Hearings  
BSC4-HearingDecsions  
M. Holden  
D. Sweeney  
MOAHR

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

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