



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: March 3, 2021  
MOAHR Docket No.: 20-008727  
Agency No.: ██████████  
Petitioner: ██████████

**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 March 1, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. 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 Family Independence Program (FIP) benefits?

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. On an unverified date, Petitioner applied for cash assistance benefits under the FIP.
2. On September 16, 2020, the Department sent Petitioner a Notice of Case Action denying her application and advising her that she was ineligible for FIP benefits. (Exhibit A, pp. 5-8)
3. The September 16, 2020, Notice of Case Action further advised Petitioner that her household was approved for FAP benefits of \$█████ for the month of September 2020 and \$█████ for October 1, 2020 ongoing. The Notice of Case Action notified

Petitioner that her household size was determined to be six and that her daughter, [REDACTED] had been removed from the household due to a failure to cooperate with child support requirements. (Exhibit A, pp. 5-8)

4. It was established that effective November 2020, [REDACTED] was placed in cooperation with child support requirements and added back to Petitioner's FAP group.
5. On December 5, 2020, the Department sent Petitioner a Notice of Case Action advising her that effective January 1, 2021, her FAP benefits would be decreasing to \$625 monthly. The Notice of Case Action identified [REDACTED] as a member of Petitioner's FAP group, as the household size was increased to seven. (Exhibit A, pp. 9-11)
6. On December 30, 2020, Petitioner requested a hearing disputing the Department's actions with respect to her FIP and FAP benefits. (Exhibit A, pp. 3-4)

### **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).

#### **FIP**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (January 2020), pp. 1-2. Moreover, BAM 600, pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. The Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp. 4-6.

In the present case, Petitioner requested a hearing on December 30, 2020 disputing the Department's actions with respect to her FIP benefits. At the hearing, the Department explained that Petitioner's application for FIP benefits was denied because she had exceeded the time limit for receipt of FIP benefits. The Department also asserted that Petitioner's hearing request was not timely filed within 90 days of the September 16,

2020 Notice of Case Action. Petitioner did not dispute that she had received FIP benefits previously or that she had exceeded the time limit available for such assistance. She testified that she understood the Department's actions regarding her FIP case. Petitioner indicated that the issue was with respect to her adult daughter's FIP benefits. Petitioner was advised that because her adult daughter had her own FIP case and was not considered a member of Petitioner's FIP group, her daughter was required to request a hearing on her own behalf, as there was no evidence that Petitioner was her daughter's AHR and thus, Petitioner could not act on her daughter's behalf.

The evidence established that Petitioner understood the actions taken by the Department with respect to her FIP case, that Petitioner's December 30, 2020 request for hearing regarding the FIP was not timely filed within 90 days of the September 16, 2020 Notice of Case Action, and that Petitioner did not have the authority to act on her daughter's behalf as required by BAM 600. As such, Petitioner's hearing request with respect to the FIP is **DISMISSED**. The hearing proceeded with respect to Petitioner's FAP benefits.

### **FAP**

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 requested a hearing on December 30, 2020 disputing the Department's actions with respect to her FAP benefits. Although Petitioner raised concerns regarding the removal of her adult daughter from the FAP group due to a failure to cooperate with child support requirements, Petitioner was advised that because she was notified of this action with the September 16, 2020 Notice of Case Action, her request for hearing was not timely filed within 90 days and the undersigned Administrative Law Judge did not have the authority to address her daughter's removal from the FAP group in connection with the September 16, 2020 notice. See BAM 600. It was established that Petitioner's adult daughter subsequently cooperated with child support requirements and was added back into Petitioner's FAP group effective November 2020.

While Petitioner confirmed that she has been receiving the maximum amount of FAP benefits allowable for her household size in accordance with Economic Stability Administration (ESA) Memorandum 2020-15, COVID-19 Response Emergency Food Assistance Allotment, which provides that active FAP groups who are not currently receiving the maximum amount of benefits for their group size will receive a supplement to bring their benefit amount up to the maximum amount allowed for their group size, Petitioner disputed the decrease in her FAP benefits effective January 1, 2021 to \$625 as notified in the December 5, 2020 Notice of Case Action.

The Department presented a Budget Summary from the December 5, 2020 Notice of Case Action which was thoroughly reviewed to determine if the Department properly concluded that Petitioner's household was eligible for \$625 in monthly FAP benefits effective January 2021.

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 Retirement Survivors Disability Insurance (RSDI) or Social Security and Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (September 2020), pp. 28-30. The budget shows that the Department concluded Petitioner's household had total gross unearned income of \$[REDACTED]. The Department identified only two sources of unearned income however, \$[REDACTED] in SSI for one of Petitioner's children and \$[REDACTED] in Social Security survivor benefits for another child, the total of which does not equal \$2,125. The Department could not otherwise explain the calculation of the unearned income and could not identify the additional unearned income that was considered. Thus, the Department failed to establish that 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 allowable 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 \$243 which was based on Petitioner's confirmed group size of seven as of January 2021. RFT 255 (January 2021), p. 1. With respect to the excess shelter deduction, the Department properly applied the \$537 heat and utility standard. The Department also considered Petitioner's monthly rent of \$800 which she disputed. Petitioner testified that her monthly rent is \$850 and that she notified the Department of the change in her address and housing expenses in October 2020. The Department testified that upon

receiving sufficient verification of Petitioner's change in address, it would update her rental expenses.

After further review, because of the errors in the calculation of Petitioner's unearned income and the Department's inability to accurately explain the amounts relied upon, the Department failed to establish that it acted in accordance with Department policy when it calculated Petitioner's FAP benefits effective January 1, 2021, ongoing.


### **DECISION AND ORDER**

Accordingly, the hearing request regarding the FIP is **DISMISSED** and the Department's FAP decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's FAP budget for January 1, 2021, ongoing;
2. Issue FAP supplements to Petitioner from January 1, 2021, ongoing, for any FAP benefits she was eligible to receive but did not, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

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-57-Hearings  
BSC4-HearingDecsions  
B. Sanborn  
M. Holden  
D. Sweeney  
MOAHR

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

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