



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: April 14, 2021  
MOAHR Docket No.: 21-001327  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 three-way hearing was held on April 8, 2021, from Bloomfield Hills, Michigan. The Petitioner, [REDACTED] was represented by herself. The Department of Health and Human Services (Department) was represented by Princess Ogundipe, Eligibility Specialist.

**ISSUE**

Did the Department properly calculate the 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 applied for FAP benefits on [REDACTED] 2021 for herself and her 17 year old son (DOB [REDACTED]/03), who attends high school and resides in the household with her.
2. The Petitioner and her son both receive Retirement, Survivors, Disability Income (RSDI) from Social Security totaling monthly income of \$1,787.00. See SOLQs, Exhibit A, pp. 6 and 8.
3. The Petitioner's FAP group is a group size of 2 members and the Petitioner received a Standard Deduction of \$167. Petitioner also pays rent of \$632.00 and pays for electricity and phone, and was credited a shelter expense of \$141 for

electricity and \$29.00 for telephone. The Petitioner was given the appropriate shelter expenses for phone and electricity. Exhibit A, p. 18.

4. The Department issued a Notice of Case Action on February 9, 2021 finding the Petitioner eligible for \$16.00 in FAP benefits for her group. Exhibit A, p. 11-13.
5. Petitioner requested a timely hearing on [REDACTED], 2021 protesting the Department's calculation of her 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, the Department completed a FAP budget and sent the Petitioner a Notice of Case Action on February 9, 2021 advising her that she was entitled to receive FAP benefits of \$16.00 monthly. RFT 250, (October 2020), p. 1, and RFT 260 (January 2021), p. 23.

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 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 (January 2021), 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. 6-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

The Department retrieved the State Online Query (SOLQ) for Petitioner and her son's RSDI payments (Exhibit A, pp.6 and 8). Petitioner's son received \$793 per month in RSDI payments. Petitioner also received RSDI of \$944 per month. Petitioner confirmed those unearned income figures were correct. The Department correctly concluded that the group's total countable income was \$1,787 based on all of the members' monthly income.

The deductions to income on the net income budget were also reviewed. There was evidence presented that the Petitioner's group includes a SDV member. BEM 550. Thus, the group is eligible for the following deductions to income if applicable:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical deduction.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2021), p. 1; BEM 556 (February 2021), p. 3-5; BEM 500 (July 2020).

In this case, the Department determined that Petitioner had shelter expense and reviewed those expenses to determine if the Petitioner was eligible for an excess shelter expense. The Petitioner paid rent of \$632 and received a standard allowance for electricity of \$141 and a standard allowance for telephone of \$29.00 for total shelter expense of \$802. RFT 255(October 2020). Exhibit A, p. 18.

In calculating the excess shelter deduction of \$0, the Department stated that it considered Petitioner's verified housing expense of \$802 and that she was entitled to the electricity standard of \$141 and telephone expense of \$29. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount of \$802 and subtracted 50% of the adjusted gross income, which resulted in a deficit. Fifty percent of the adjusted gross income was \$810. Therefore, the Department correctly determined Petitioner was not entitled to an excess shelter deduction.

Although not discussed during the hearing, after reviewing the FAP issuance tables it appears that Petitioner should be receiving \$19.00 a month. RFT 260. In addition, based upon the emergency orders issued by the Department regarding FAP issuance during the Covid Pandemic that require FAP groups to be supplemented to the full benefit amount for their group size of 2, the Department should review this case and determine if supplements are being properly issued to Petitioner. ESA2021-03 updated March 10, 2021.

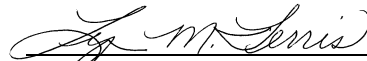
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it calculated the Petitioner's FAP benefits.

**DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**

LMF/tm



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**Lynn M. Ferris**  
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-18-Hearings  
M. Holden  
D. Sweeney  
BSC4  
MOAHR

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

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