



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI
[REDACTED]

Date Mailed: May 17, 2021
MOAHR Docket No.: 21-001834
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 May 13, 2021, from Detroit, Michigan. Petitioner was present with his Arabic interpreter, [REDACTED]. The Department of Health and Human Services (Department) was represented by Lucille Grandison, Eligibility Specialist and Gloria Thompson, Family Independence Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) eligibility?

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 was an ongoing FAP recipient.
2. On February 17, 2021, Petitioner completed a redetermination related to his FAP benefit case (Exhibit A, pp. 5-9).
3. On March 16, 2021, Petitioner completed an interview with the Department where he reported he was receiving Unemployment Compensation Benefit (UCB) income in the gross amount of \$ [REDACTED] per week (Exhibit A, pp. 10-12).
4. On March 29, 2021, the Department sent Petitioner a Notice of Case Action informing him that he was eligible for FAP benefits in the amount of \$ [REDACTED] per month effective April 1, 2021, ongoing (Exhibit A, pp. 17-21).

5. On [REDACTED], 2021, Petitioner submitted a request for hearing disputing the Department's actions.

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 was an ongoing FAP recipient. In February 2021, Petitioner completed a redetermination related to his FAP benefit case. At the redetermination interview, Petitioner reported that he was receiving UCB income in the gross amount of \$[REDACTED] per week. As a result, the Department redetermined Petitioner's FAP benefit amount with the inclusion of the UCB income. The Department determined that Petitioner was eligible for FAP benefits in the amount of \$[REDACTED] per month. The Department presented a FAP budget to establish the calculation of Petitioner's FAP benefit amount (Exhibit A, pp. 13-15).

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 2017), pp. 1-5. The Department includes the gross UCB income as unearned income. BEM 503, p. 38. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9.

Per the budget provided, the Department included \$[REDACTED] in unearned income in Petitioner's FAP budget. The Department testified that it relied on Petitioner's statement at the interview that he was receiving UCB income in the gross amount of \$[REDACTED] per week, which is paid on a biweekly basis. Petitioner confirmed at the hearing that he was receiving UCB income in the gross amount of \$[REDACTED] per week. Petitioner's biweekly UCB income rate of \$[REDACTED] multiplied by the 2.15 multiplier results in a standard monthly income amount of \$[REDACTED]. Therefore, the Department properly determined Petitioner's household income.

The deductions to income on the net income budget were also reviewed. There was no evidence presented that Petitioner's group includes a senior/disabled/veteran (SDV) household member. BEM 550 (January 2017), pp. 1-2. Thus, the group 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.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2020), p. 1; BEM 556 (January 2020), p. 3.

Petitioner's FAP benefit group size of one justifies a standard deduction of \$167. RFT 255 (January 2020), p. 1. There was no evidence presented that Petitioner had any out-of-pocket dependent care or child support expenses. Therefore, the budget properly excluded any deduction for dependent care or child support expenses.

In calculating the excess shelter deduction of \$█, the Department stated that it considered Petitioner's verified housing expense of \$500 and that he was responsible for a monthly heating expense, entitling him to the heat/utility standard of \$537. BEM 554, pp. 14-15. The Department testified when calculating Petitioner's excess shelter amount, they added the total shelter amount and subtracted 50% of the adjusted gross income. Petitioner's excess shelter deduction was properly calculated at \$343 per month.

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. After subtracting the allowable deductions, the Department properly determined Petitioner's adjusted gross income to be \$█. Petitioner's adjusted gross income subtracted by the \$343 excess shelter deduction results in a net income of \$█. Per the budget provided, the Department properly determined Petitioner's net income. However, the Department utilized outdated policy to determine Petitioner's ongoing FAP benefit amount. Effective February 1, 2021, BEM 556 was updated to state that the group's net income is not multiplied by 30% for a group size of 1 or 2. BEM 556 (February 2021), p. 6. The Department is to utilize net income results and RFT 260 to determine FAP issuance amounts. BEM 556, p. 6. Per RFT 260, a group size of one with a net income of \$█ is entitled \$█ per month in FAP benefits. Therefore, the Department did not properly determine Petitioner's FAP eligibility.

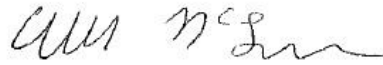
DECISION AND ORDER

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 did not act in accordance with Department policy when it determined Petitioner's monthly FAP benefit allotment. Accordingly, the Department's 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. Redetermine Petitioner's FAP benefit amount as of April 1, 2021;
2. Utilize RFT 260 to determine Petitioner's monthly FAP benefit allotment;
3. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive; and
4. Notify Petitioner of its decision in writing.

EM/jem



Ellen McLemore
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-17-Hearings
BSC4-HearingDecisions
M. Holden
D. Sweeney
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]