



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 21, 2021
MOAHR Docket No.: 21-002007
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 19, 2021, from Lansing, Michigan. Petitioner [REDACTED] appeared and self-represented. The Department of Health and Human Services (Department or Respondent) was represented by Kimberly Reed, Lead Worker.

Department's Exhibit A pages 1-28 were admitted as evidence.

ISSUE

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) allotment?

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 a FAP benefits recipient.
2. Petitioner's case was due for redetermination in March of 2021.
3. Petitioner was eligible to receive \$153.00 per month in Food Assistance Program allotment.
4. Petitioner was receiving a COVID supplement, which brought her benefit to \$204.00 per month maximum.

5. On February 25, 2021, the Department received a completed MDHHS-1010 Redetermination.
6. On March 17, 2021, the Department processed the review and mailed a DHS-3503 Verification Checklist requesting proof of medical expenses that were reported on the redetermination form.
7. On March 23, 2021, the Department received a pharmacy printout verifying out of pocket expenses paid by Petitioner from January 1-March 21 for prescriptions.
8. The total paid by Petitioner during this time frame was \$9.10.
9. A Senior, Disabled or Disable Veteran food group may claim medical expenses if the expense exceeds \$35.00 per month.
10. On March 24, 2021, the Department entered the verifications and approved food assistance benefits.
11. A DHS-1605 Notice of Case Action was mailed to Petitioner.
12. On April 7, 2021, the Department received an unsigned written request for hearing.
13. The previous FAP budget includes \$1,053 RSDI income, \$165 medical deduction, \$277 rent, and the heat and utility standard of \$537.
14. The current food assistance budget includes \$1,053 RSDI income, \$300 rent, and the heat and utility standard of \$537.
15. Since the verified medical expenses did not exceed \$35 per month, the group did not receive the Standard Medical deduction of \$165.
16. The Department is still paying an updated supplement to the maximum benefit of \$230.00 per month.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Michigan Office of Administrative Hearings and Rules (MOAHR) may grant a hearing for any of the following:

- 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.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

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Pertinent FAP policy indicates:

Federal regulations at 7 CFR 271; 273 provides standards for the determination of Food Assistance Program budgeting. The Department follows the program reference manual, tables, charts, schedules, Table 240-1.

Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative. Income remaining after applying the policy in the income

related items is called countable. This is the amount used to determine eligibility and benefit levels. Count all income that is not specifically excluded. BEM 500, page 1

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. BEM 500, pages 4-5

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Every case is allowed the standard deduction shown in Reference Tables Manual (RFT) 255. Document income budgeting on either a manually calculated or an automated FAP worksheet. (BEM 550, page 1)

Use only available, countable income to determine eligibility. The Bridges Eligibility Manual (BEM) 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy.

In the instant case, Petitioner's household received total monthly \$1,053 in RSDI income.

Petitioner was given the standard deduction of \$167, $\$1,053 - \$167 = \$886$ in adjusted gross income.

Petitioner pays \$300 per month in rent, and she was given the heat and utility standard of \$537 for a total of \$837 in total shelter amount.

$\$837$ in total shelter amount - $\$443$ (50% of adjust gross income) = $\$394$ in Adjusted Excess shelter amount.

$\$886$ in adjusted gross income - $\$394$ in excess shelter deduction = $\$492$ in net income.

$\$492$ net income x .30 (net income divisor) = $\$148$.

The maximum monthly FAP benefit for a one-person group = $\$234$.

$\$234$ (maximum FAP benefit amount) - $\$148$ (30% of net income) = $\$86$ in monthly FAP benefit allotment.

A review of Petitioner's case reveals that the Department failed to budget the correct amount of Food Assistance Program benefits for April 1, 2021, because the FAP maximum benefit rose in 2021. However, Petitioner has been receiving the COVID-19 supplemental FAP benefit which has brought her monthly FAP benefit allotment to the maximum of \$234 for the months of March 2021 forward received by Petitioner at the time of determination.

Petitioner's deductions, medical deductions and shelter allotment are governed by Food Assistance Program policy and cannot be changed by the Department or this Administrative Law Judge. The Department representative did not calculate the new maximum amount of FAP allotment in the current FAP budget.

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 has not established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it determined that Petitioner was eligible for a reduced benefit of \$56.00 per month in Food Assistance Program benefits. The Department has not established its case by a preponderance of the evidence.


DECISION AND ORDER

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. Recalculate Petitioner's budget for FAP benefits;
2. Pay to Petitioner any benefits to which she is entitled, if otherwise eligible, after the reassessment.
3. Notify Petitioner of her corrected FAP eligibility amount.

LL/hb



Landis Lain
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

DHHS

Montcalm County via electronic mail

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]