



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: September 22, 2021
MOAHR Docket No.: 21-003871
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 telephonic hearing was held on September 9, 2021. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS or the Department) was represented by Eligibility Specialist, Janiece Wiley, and Hearings Facilitator, Corlette Brown.

ISSUE

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

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 recipient of FAP.
2. On July 17, 2021, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit amount decreased to \$ [REDACTED] /month for a group-size of one, effective August 1, 2021 – September 30, 2022 (Exhibit A, pp. 12-16). The decrease resulting from a change in Petitioner's shelter expense, which affected her shelter deduction (Exhibit A, p. 13). To calculate Petitioner's FAP benefit amount, the Department budgeted \$ [REDACTED] in unearned income (Exhibit A, p. 13).
3. On [REDACTED], 2021, Petitioner submitted a timely hearing request disputing the decrease in her FAP benefit amount (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).

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 disputed the Department's reduction of her FAP benefit rate. On July 17, 2021, MDHHS sent Petitioner a Notice of Case Action indicating that her FAP benefit rate was decreased effective August 1, 2021. However, due to the COVID-19 pandemic, the federal government authorized the State of Michigan to issue Emergency Allotments (EA) to all FAP households, meaning that all FAP households not receiving the maximum benefit for their group size would receive a supplement to bring their benefit amount to the maximum for their group size. ESA Memo 2021-22 (May 2021). While the EA are in effect, Petitioner's FAP benefit amount is the maximum for a household size of one, which is currently \$[REDACTED]. *Id.* When the EA are no longer in effect, Petitioner will receive her regular benefit amount, which the Department calculated as \$[REDACTED] per month.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the evaluation first starts with consideration of all countable earned and unearned income available to the client. 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.

MDHHS budgeted \$[REDACTED] for Petitioner's unearned income, based on her monthly Retirement, Survivors, Disability Insurance (RSDI) payment and Supplemental Security Income (SSI) payments (Exhibit A, pp. 6-8). MDHHS submitted documentation and Petitioner confirmed that Petitioner receives \$[REDACTED] per month in SSI payments and \$[REDACTED] per month in RSDI payments. The RSDI and SSI payments are Petitioner's only source of income and they are received monthly, so there is no need for the Department to further standardize or prospect income. Adding together the RSDI and SSI income equals \$[REDACTED]. BEM 556 (February 2021), p. 3. Additionally, based on her receipt of SSI, Petitioner is entitled to \$[REDACTED] in a quarterly State SSI payment (SSP). BEM 660 (October 2020), pp. 1-2. MDHHS is required to budget \$14.00 in monthly SSP for FAP purposes. BEM 503 (April 2021), p. 36. Although MDHHS did not identify the SSP, the sum of RSDI, SSI and SSP equals \$[REDACTED]. BEM 556 (February 2021), p. 3.

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner is a Senior, Disabled, or disabled Veteran (SDV); therefore, she is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses greater than \$35.00

BEM 550 (October 2020), pp. 1; BEM 554 (January 2021), p. 1; BEM 556 (February 2021), pp. 3-6.

No evidence was presented that Petitioner has any dependent care, child support or verified medical expenses. At the hearing, Petitioner testified that she had medical expenses. Policy provides as of January 2021 that an SDV group that has a verified one-time or ongoing medical expense or expenses of more than \$35.00 for an SDV person will receive the Standard Medical Deduction (SMD) of \$165.00. BEM 554, p. 9. If the group has actual medical expenses which are more than the SMD, the client has the option to verify the actual expense instead of receiving the SMD. If the verified expense minus \$35.00 is greater than the SMD, the client will receive the verified expense minus \$35.00. *Id.* However, because Petitioner acknowledged that she had not submitted any medical expenses to MDHHS, MDHHS properly considered no medical expenses in calculating Petitioner's FAP budget. Petitioner is advised that she should submit verification of out-of-pocket medical expenses to MDHHS, which will determine if the expenses are allowable and the amount of the deduction, if eligible. Finally, Petitioner has a group size of one, so she is eligible for the standard deduction of \$[REDACTED]. RFT 255 (January 2021), p. 1; BEM 556, p. 4.

After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each item from her gross income of \$543.00. Therefore, Petitioner's AGI is \$[REDACTED].

Once the AGI is calculated, the Department must then consider the Excess Shelter Deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The Excess Shelter Deduction is calculated by adding Petitioner's Housing Costs to any of the applicable standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). In this case, MDHHS budgeted zero housing costs for Petitioner. When asked about her housing costs, Petitioner testified that she lives with family and that her nieces cover the housing expenses. Petitioner is not responsible for any utilities, so she was not eligible for the standard heat/utility deductions. Because her housing costs are zero and she is not eligible for any heat/utility deductions, she is not eligible for the Excess Shelter Deduction.

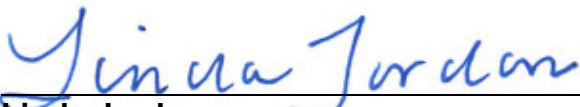
Next Petitioner's excess shelter deduction is subtracted from her AGI to determine her Net Income of \$ [REDACTED]. Based on Petitioner's Net Income of \$ [REDACTED] per month, she was eligible for \$ [REDACTED] in FAP benefits on August 1, 2021. RFT 260 (May 2021), p. 6.

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 reduced Petitioner's benefit amount.

DECISION AND ORDER

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

LJ/jm



Linda Jordan
Administrative Law Judge

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-31-Grandmont-Hearings
M. Holden
D. Sweeney
BSC4-HearingDecisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED], MI [REDACTED]