



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], MI [REDACTED]

Date Mailed: April 4, 2022  
MOAHR Docket No.: 22-000712  
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, hearing was held via teleconference on March 30, 2020. [REDACTED], [REDACTED]'s husband and household member, appeared on behalf of Petitioners. Jerica Hall, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly determine Petitioners' 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. Petitioners were ongoing recipients of FAP benefits.
2. On [REDACTED], 2021, Petitioners submitted a FAP Redetermination to MDHHS (Exhibit A, pp. 16-20). Petitioners reported that they had \$ [REDACTED] per month in medical expenses (Exhibit A, p. 18).
3. On December 16, 2021, MDHHS sent Petitioners a Verification Checklist (VCL), which requested proof of medical expenses and pension/retirement income (Exhibit A, pp. 21-23). The VCL indicated that the proofs were due by December 27, 2021 (Exhibit A, p. 21).

4. On January 11, 2022, MDHHS sent Petitioners a Notice of Case Action indicating that they were approved for FAP benefits for a household of two at a rate of \$ [REDACTED] per month, effective January 1, 2022 (Exhibit A, pp. 8-12). The benefit rate was based on no medical expenses and was a decrease from the group's previous benefit rate.
5. On [REDACTED], 2022, Petitioners filed a Request for Hearing challenging the reduction of the FAP benefit amount (Exhibit A, pp. 4-7),

### **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. MDHHS 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, MDHHS decreased Petitioners' FAP benefit rate to \$ [REDACTED] after processing the group's FAP Redetermination. 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 FAP households not receiving the maximum benefit for their group size will receive a supplement to bring their benefit amount to the maximum amount allowed for their group size. ESA Memo 2022-22 (January 2022). If the supplement does not equal or exceed \$95.00, the group will receive additional benefits up to \$95.00, even if this causes them to exceed the maximum benefit amount for the group size. *Id.* While the EA are in effect, Petitioners' FAP benefit amount is the maximum for a household size of two, which was \$430.00 per month as of October 1, 2021. *Id.*; RFT 260 (October 2021), p. 1. When the EA are no longer in effect, Petitioners will receive their regular benefit amount, which MDHHS determined was \$88.00 per month.

Petitioners' FAP benefit rate of \$ [REDACTED] was based on no medical expenses. Petitioners disputed the decrease and claimed that they were entitled to deductions for medical expenses. At the hearing, MDHHS testified that Petitioners submitted the required verifications of medical expenses after they submitted the hearing request. MDHHS accepted the verifications and recalculated the FAP budget, which caused an increase in the FAP benefit rate. However, this Hearing Decision only addresses MDHHS' actions prior to receiving the Request for Hearing.

The record shows that Petitioners submitted the FAP Redetermination on November 12, 2021 and reported that they had \$ [REDACTED] per month in medical expenses (Exhibit A, p. 18). When processing the Redetermination, MDHHS noted that the medical deduction previously budgeted for Petitioners was based on information received in 2013. MDHHS removed the medical expenses and sought updated verifications of medical expenses from Petitioners. On December 16, 2021, MDHHS sent Petitioners a Verification Checklist (VCL), which requested proof of medical expenses and pension/retirement income (Exhibit A, pp. 21-23). The VCL indicated that the proofs were due by December 27, 2021 (Exhibit A, p. 21). Regarding the pension/retirement income, MDHHS testified that it used the best available information based on its past records and additional verification was not necessary. Regarding the medical expenses, MDHHS stated that it did not receive the requested verifications by the deadline. Because it did not receive the requested verifications for medical expenses by the deadline, it budgeted \$ [REDACTED] for the group's medical deduction and determined that Petitioners were eligible for \$ [REDACTED] per month in FAP. On January 11, 2022, MDHHS sent a Notice of Case Action with the new benefit amount.

On [REDACTED], 2022, Petitioners filed a Request for Hearing in letter format (Exhibit A, pp. 4-7). The letter demanded a hearing on the benefit reduction and provided a narrative of the group's medical expenses.

To determine whether MDHHS properly calculated Petitioners' FAP benefit amount, all countable earned and unearned income available to the client must be considered. BEM 500 (July 2020), pp. 1-5. MDHHS budgeted \$ [REDACTED] in unearned income for Petitioners based on Retirement, Survivors, Disability Insurance (RSDI) income and retirement income. Petitioners did not dispute this amount.

After income is calculated, MDHHS must determine applicable deductions. Because Petitioners are disabled, their FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (January 2022), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (January 2022), p. 1; BEM 556 (October 2021), p. 3.

No evidence was presented that Petitioners had earned income, dependent care expense or court-ordered child support. MDHHS budgeted the standard deduction based on a group-size of two, which was \$ [REDACTED]. RFT 255 (October 2021), p. 1.

Petitioners were also entitled to deductions for *verified* medical expenses that they incurred in excess of \$35. BEM 554, p. 1. MDHHS is required to obtain verification from clients when it is required by policy or information is unclear or incomplete. BAM 130 (July 2021), p. 1. To obtain verification, MDHHS must tell the clients what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.*

The record shows that MDHHS requested verification of the group's medical expenses on the December 16, 2021 VCL. No evidence was presented that Petitioners submitted verification of the expenses by the deadline or that they contacted MDHHS prior to the deadline to request an extension or assistance. Thus, MDHHS acted in accordance with policy when it budgeted \$0.00 in medical deductions because Petitioners failed to verify the information.

The above deductions were subtracted from Petitioners' monthly income of \$ [REDACTED] to determine Petitioners' Adjusted Gross Income (AGI). The record shows that MDHHS properly determined that Petitioners' AGI was \$1,679.00.

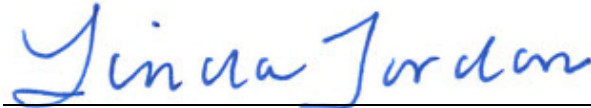
Next, MDHHS is required to determine the excess shelter deduction. In calculating the excess shelter deduction of \$ [REDACTED], MDHHS stated that it considered Petitioner's verified housing expenses of \$ [REDACTED] and budgeted the heat and utility standard of \$ [REDACTED]. BEM 554, pp. 14-15. Petitioners did not dispute these amounts. MDHHS determined Petitioner's total shelter expense by adding together the verified housing expenses of \$ [REDACTED] and the heat/utility standard of \$ [REDACTED], which equaled \$ [REDACTED]. To determine the excess shelter deduction, 50% of the AGI is subtracted from the total shelter amount. Subtracting 50% of Petitioners' AGI, or \$ [REDACTED], from Petitioners' total shelter amount of \$ [REDACTED] equals \$ [REDACTED]. Therefore, MDHHS properly determined that Petitioners' excess shelter deduction was \$ [REDACTED].

Finally, to determine Petitioners' net income for FAP, MDHHS subtracted the excess shelter deduction of \$ [REDACTED] from Petitioner's AGI of \$ [REDACTED], which equals \$ [REDACTED]. A household of two with a net income of \$ [REDACTED] is entitled to receive \$ [REDACTED] per month in FAP benefits. RFT 260 (October 2021), p. 12.

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 MDHHS acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

**DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED**.



LJ/tm

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**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

**Email Recipients:**

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**First-Class Mail Recipient:**

  
, MI