



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: October 13, 2022  
MOAHR Docket No.: 22-004156  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

### **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 October 10, 2022. The Petitioner was self-represented and had his mother [REDACTED] appear as a witness. The Department of Health and Human Services (Department) was represented by Joanna Rivera, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) benefit rate?

### **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 receives \$ [REDACTED] per month in Retirement Survivors Disability Insurance (RSDI) benefits.
2. Petitioner has a group size of one.
3. Petitioner lives with his mother and has a rental agreement whereby he pays \$400.00 per month in rent which includes utilities. Their agreement stipulates that \$100.00 of the \$400.00 paid per month is to go toward utilities.
4. Petitioner also works at the [REDACTED] and is paid bi-weekly. Petitioner's paycheck for July 29, 2022 had a gross pay of \$ [REDACTED] and his paycheck for August 12, 2022 had a gross pay of \$ [REDACTED]

5. Petitioner has not submitted any recent medical expenses for consideration in his FAP budget. Petitioner is a Medicare recipient but is not responsible for his premiums as they are paid by the State of Michigan through the Medicare Savings Program (MSP).
6. Effective October 2022, Petitioner's FAP benefit rate was reduced to \$38.00 per month.
7. On September 13, 2022, the Department received Petitioner's request for hearing disputing the Department's calculation of his FAP benefit rate.

### **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 disputes the Department's calculation of his FAP benefit rate. All countable, gross earned and unearned income available to the group must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the group's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2022), 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Income received bi-weekly is averaged and multiplied by 2.15 to achieve the standardized monthly income. *Id.* Petitioner has monthly RSDI of \$[REDACTED]0 which does not need to be standardized further. He also has earned income received on a bi-weekly basis which when standardized totals \$[REDACTED] per month. Therefore, Petitioner has a total gross monthly income of \$[REDACTED].

After consideration of income, the Department considers all appropriate deductions and expenses. Petitioner's group includes a Senior, Disabled, or disabled Veteran (SDV) group member; therefore, the group 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 expense deduction for the SDV group member
- Earned income deduction of 20%

BEM 550 (January 2022), p. 1; BEM 554 (October 2022), p. 1; BEM 556 (October 2022), pp. 3-6.

As discussed above, Petitioner has a standardized gross income of \$ [REDACTED]. No evidence was presented that Petitioner has a child support or dependent care expense and the Department properly budgeted \$0.00 for these items. In addition, Petitioner has a group size of one, so he is eligible for the standard deduction of \$193.00 and that was properly budgeted. RFT 255 (October 2022), p. 1; BEM 556, p. 4. Next, Petitioner is an SDV group member but has not submitted any recent expense for consideration in his FAP budget. Per policy an SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the SMD. BEM 554, p. 9. The SMD is \$165. *Id.* If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. *Id.* In addition, groups that do not have a 24-month benefit period may choose to budget a one-time-only expense for one month or average it over the balance of the benefit period. BEM 554, p. 9. Finally, Petitioner is eligible for the 20% earned income deduction totaling \$241.00. After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each of these expenses from his gross income. 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). Housing expenses include rent and other similar items. BEM 554, p. 13-14. Utilities are addressed by the heat and utility standard deduction (H/U) which covers all heat and utility costs including cooling when the group is responsible for or contributes toward the heating and utility expenses. BEM 554, p. 16. FAP groups that receive the H/U do not receive any other individual utility standard deductions including water, sewer, gas, trash, telephone, or non-heat electric. *Id.* Petitioner has a current rent expense of \$300.00 per month. He also contributes \$100.00 per month for utility costs; therefore, the Department properly afforded Petitioner the heat and utility standard deduction (H/U). Effective October 1, 2022, the H/U was \$620.00. RFT 255, p. 1. The expenses outlined here are the only expenses considered for purposes of calculating the FAP budget and eligibility determination. Petitioner's total housing cost is

\$920.00 which is reduced by 50% of Petitioner's AGI (\$ [REDACTED]) resulting in an excess shelter cost of \$310.00. *Id.*

Next, Petitioner's excess shelter cost is deducted from his AGI to equal his net income, \$ [REDACTED]. Next, Petitioner's Net Income is compared against the Food Assistance Issuance Tables RFT 260 to determine his benefit rate of \$23.00 per month. RFT 260 (October 2022), p. 13.

The Department previously calculated a benefit rate of \$38.00. Since the Department's calculation grants Petitioner a greater benefit rate than that calculated here, 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's calculated benefit rate is **AFFIRMED**.

**DECISION AND ORDER**

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

AMTM/cc



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**Amanda M. T. Marler**  
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-Electronic Mail :**

**Interested Parties**

MDHHS-Oakland-6303-Hearings  
BSC4-HearingDecisions  
D. Sweeney  
M. Holden  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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