



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: January 26, 2023  
MOAHR Docket No.: 22-004623-RECON  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**ORDER GRANTING REQUEST FOR RECONSIDERATION**  
**AND**  
**DECISION AND ORDER OF RECONSIDERATION**

On November 30, 2022, the Michigan Office of Administrative Hearings and Rules (MOAHR) received from the Michigan Department of Health and Human Services (MDHHS) a request for rehearing and/or reconsideration of the Hearing Decision issued on November 10, 2022 by the undersigned administrative law judge (ALJ) at the conclusion of the hearing conducted on November 2, 2022 in the above-captioned matter.

In the Hearing Decision, the undersigned reversed MDHHS' decision, ordering them to recalculate the Petitioner's Food Assistance Program (FAP) budget for August 21, 2022 ongoing, in accordance with Department policy and consistent with the hearing decision.

On November 30, 2022, the Department submitted a timely request for reconsideration and/or rehearing. The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy in the Bridges Administrative Manual (BAM) BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application or services at issue and may be granted so long as the reasons for which the request is made comply with the policy and statutory requirements. A rehearing is a full hearing which may be granted if the original hearing record is inadequate for purposes of judicial review or there is newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision. BAM 600 (March 2021), p. 44. A reconsideration is a paper review of the facts, law or legal arguments and any newly discovered evidence that existed at the time of the hearing and may be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is not necessary, but one of the parties is able to demonstrate that the presiding ALJ misapplied manual policy or law in the

hearing decision, which led to the wrong decision; issued a Hearing Decision with typographical errors, mathematical errors, or other obvious errors that affect the substantial rights of the petitioner; or failed to address other relevant issues in the hearing decision. BAM 600, p. 44.

In the request, MDHHS alleged that the undersigned misapplied manual policy or law in the Hearing Decision, which led to the wrong decision, specifically in calculating Petitioner's excess shelter expense pursuant to BEM 556.

Because MDHHS alleges a misapplication of policy or law in the Hearing Decision, and has identified the policy at issue, a basis for reconsideration is established. Therefore, the request for reconsideration is **GRANTED**.

The Decision and Order of Reconsideration follows a full review of the case file, all exhibits, the hearing record and applicable statutory and policy provisions.

## **DECISION AND ORDER OF RECONSIDERATION**

### **ISSUE**

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine her monthly amount of benefits?

### **FINDINGS OF FACT**

The undersigned, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 2, 2022, a hearing was held in the above captioned matter.
2. On November 10, 2022, the undersigned issued a Hearing Decision in the matter.
3. The Findings of Fact numbers 1 through 12 in the Hearing Decision are incorporated by reference.
4. On November 30, 2022, the MOAHR received MDHHS' timely request for reconsideration, which is granted herein.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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, *et seq.*, and is implemented, in relevant part, by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and Mich Admin Code, R 400.3001 to R 400.3011.

At the hearing, MDHHS presented budget documents listing the calculations used to determine Petitioner's FAP eligibility (see Exhibit A, pp. 75-77). During the hearing, all relevant budget factors were discussed with Petitioner. The undersigned manually calculated the FAP budget in reviewing MDHHS' calculations and determination of Petitioner's FAP benefits. The undersigned made a mathematical error in calculating Petitioner's excess shelter expense, which then led to the incorrect determination that Petitioner is eligible for [REDACTED] in monthly FAP benefits, rather than the [REDACTED] monthly FAP amount that MDHHS determined. In reviewing the request for redetermination and Exhibit A thoroughly, the undersigned acknowledges that a mathematical error was made. The Petitioner's FAP group's total shelter expense is [REDACTED]. Half of the Adjusted Gross Income (AGI) is [REDACTED]. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. In this case, that results in a negative number, so Petitioner's excess shelter expense is \$0.00. Since the AGI is [REDACTED] and the excess shelter expense is [REDACTED], Petitioner's net income is [REDACTED]. As a group size of two, Petitioner is eligible for [REDACTED] in monthly FAP benefits. RFT 260 (October 2022), p. 30.

Therefore, MDHHS acted in accordance with Department policy when it determined Petitioner to be eligible for [REDACTED] in monthly FAP benefits.

### **DECISION AND ORDER**

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

DN/tlf



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**Danielle Nuccio**  
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 :**

**DHHS**  
Janice Collins  
Genesee County DHHS Union St  
District Office  
125 E. Union St 7th Floor  
Flint, MI 48502  
**MDHHS-Genesee-UnionSt-  
Hearings@michigan.gov**

**Via-First Class Mail :**

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