



GRETCHEN WHITMER  
GOVERNOR

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

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DIRECTOR

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Date Mailed: December 20, 2022  
MOAHR Docket No.: 22-005042  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle Nuccio**

**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 November 30, 2022. The Petitioner appeared and was represented by Authorized Hearing Representative (AHR) ██████████. The Department of Health and Human Services (MDHHS) was represented by Raven Douthard, Assistant Payments Worker and Hearing Facilitator.

At the hearing, the Petitioner waived her right to receiving and reviewing the 17-page hearing packet prior to the hearing and the packet was entered into evidence as MDHHS's Exhibit A. MDHHS testified they will send Petitioner a hearing packet for her records. Shortly after commencement of the hearing, it was discovered that Exhibit A was incomplete. Good cause was established to continue the hearing in order for MDHHS to prepare and send a complete hearing packet. Petitioner waived the timeliness standards required by law to allow for the continued hearing to take place. On November 30, 2022, the undersigned Administrative Law Judge (ALJ) issued an Order for Continuance and Notice of Continued Telephone Hearing, scheduling a continued hearing for December 15, 2022. The second day of hearing commenced as scheduled on December 15, 2022. The Petitioner appeared and was represented by AHR ██████████. MDHHS was represented by Raven Douthard, Assistant Payments Worker and Hearing Facilitator.

The record closed at the conclusion of the hearing on December 15, 2022.

**ISSUE**

Did MDHHS properly reduce Petitioner's Food Assistance Program (FAP) benefits?

### **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 for a group size of one and a Senior, Disabled, or Disabled Veteran (S/D/V) individual.
2. On September 24, 2022, MDHHS received Petitioner's redetermination of FAP eligibility. Petitioner reported that she pays \$607.00 per month in housing costs and must pay for electricity and her telephone. Petitioner does not pay for heat (Exhibit B, pp. 32-35).
3. On October 17, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing her that her FAP benefits have been reduced to \$[REDACTED] monthly, effective November 1, 2022 (Exhibit B, pp. 43-47).
4. On October 28, 2022, MDHHS received Petitioner's timely submitted hearing request disputing the reduction in her FAP benefits (Exhibit B, pp. 4-6).

### **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 reduction in her monthly amount of FAP benefits, specifically that she no longer receives the heat and utility standard (h/u) in her household budget.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. MDHHS presented budget documents listing the calculations to determine Petitioner's FAP eligibility. During the hearing, all relevant budget factors were discussed with Petitioner.

Petitioner confirmed that the earned and unearned income amounts relied upon by MDHHS were correct. For groups containing S/D/V members, such as Petitioner's,

MDHHS considers the following expenses: childcare, court-ordered child support and arrearages paid to non-household members, medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554 (January 2022) p. 1. MDHHS factored no medical, child support, or dependent care expenses for Petitioner's FAP eligibility. Petitioner confirmed this was correct. Thus, MDHHS properly counted the group's non-shelter expenses to be \$0.00.

Petitioner disputes that MDHHS no longer credited her the h/u standard. The heat/utility (h/u) standard covers all heat and utility costs including cooling expenses. BEM 554, p. 16. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. BEM 554, p. 15. FAP groups whose heat is included in the cost of their monthly rent may still be eligible for the h/u standard if: they are billed for excess heat payments from their landlord; they have received a home heating credit in an amount greater than \$20 for the applicable period; or they have received a Low Income Home Energy Assistance Payment (LIHEAP) or a LIHEAP payment was made on their behalf in an amount greater than \$20 for the applicable period. BEM 554, pp. 15-19. Additionally, FAP groups who pay cooling (including room air conditioners) are eligible for the h/u standard if they verify their responsibility to pay for non-heat electric expenses. BEM 554, p. 16. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the costs of other utility expenses are eligible for the individual utility standards. BEM 554, p. 21. MDHHS testified that it calculated Petitioner's housing expenses from her report of \$607.00 in rent and responsibility for paying for electricity and phone. Petitioner confirmed that heat is included in her rent payment and that she does not pay for heat directly. Petitioner no longer qualifies for the h/u credit since she is not responsible for paying any qualifying utilities. MDHHS credited her for the non-heat electric standard of \$153.00 and telephone standard of \$30.00. RFT 255 (October 202), p. 1.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of the adjusted gross income from the total shelter obligation. Petitioner's excess shelter amount is \$272.00.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$[REDACTED] in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance. RFT 260 (October 2022) p. 11. Based on Petitioner's group size and net income, Petitioner's proper FAP benefit issuance is \$[REDACTED]; the same issuance amount that was calculated by MDHHS. Thus, MDHHS properly determined Petitioner's FAP eligibility.

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 determined Petitioner to be eligible for \$[REDACTED] in monthly FAP benefits.

**DECISION AND ORDER**

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

DN/mp



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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

