



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: February 9, 2023
MOAHR Docket No.: 22-005965
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 6, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Meshawn Coleman, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of 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 is an ongoing recipient of FAP benefits.
2. In connection with an automatic update on December 3, 2022, Petitioner's FAP eligibility was reviewed due to an increase in her monthly Supplemental Security Income (SSI).
3. On or around December 3, 2022, the Department sent Petitioner a Notice of Case Action advising her that effective January 1, 2023, her FAP benefits were being decreased to \$54 monthly. This change was a result of the increase in Petitioner's SSI and the removal of a previously applied homeless shelter deduction. (Exhibit A, pp. 10-14)
4. Following an administrative hearing held on or around November 30, 2022, a Hearing Decision was issued, ordering the Department to reinstate Petitioner's

homeless shelter deduction effective October 1, 2022. (See Hearing Decision for MOAHR Docket No. 22-005059)

5. In accordance with the Hearing Decision for MOAHR Docket No. 22-005059, the Department recalculated Petitioner's FAP budget to include the homeless shelter deduction, and approved Petitioner for FAP benefits of \$126 from October 2022 to December 2022.
6. On or around December 7, 2022, the Department sent Petitioner a Notice of Case Action advising her that effective January 1, 2023, she was approved for FAP in the amount of \$104 monthly. Exhibit A, pp. 15-19)
7. On or around December 16, 2022, Petitioner requested a hearing disputing the amount of her FAP benefits of \$104. Petitioner also asserted she was disputing the decrease in her benefits for the months of April 2022 through December 2022. (Exhibit A, pp. 3-7)

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. 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 requested a hearing disputing the amount of her benefits effective January 1, 2023, in the amount of \$104. Petitioner also raised concerns with respect to what she asserted was the decrease in her FAP benefits between the months of April 2022 and December 2022. The Department presented a Benefit Summary Inquiry as well as an Eligibility Summary detailing the amount of FAP benefits issued to Petitioner from April 2022 through January 2023. (Exhibit A, pp. 20, 25-27). Although there appear to be some fluctuations in the approved monthly FAP benefit allotment, the documents show that Petitioner received a supplement of FAP benefits each month, along with her approved ongoing monthly benefits.

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 would receive a supplement to bring their benefit amount to the maximum for their group size. Petitioner has a confirmed household size of one. The maximum of FAP benefits a one-person

household was eligible to receive was \$250 through September 2022 and increased to \$281 effective October 2022.

According to the Benefit Summary Inquiry, these supplements are identified and clearly show that Petitioner received the maximum amount of benefits for her group size of one through December 2022. Specifically, Petitioner was issued \$250 in total FAP benefits for the months of April 2022 through September 2022 and \$281 in FAP benefits from October 2022 through December 2022. Therefore, despite the fluctuations in the ongoing monthly allotment, Petitioner did not suffer any loss of benefits for the time period between April 2022 and December 2022. The amount of Petitioner's FAP benefits for January 2023 is addressed below.

With respect to Petitioner's FAP benefits for the month of January 2023, ongoing, the Department representative testified that based on Petitioner's increase in monthly SSI and the inclusion of the homeless shelter deduction as ordered by the Administrative Law Judge following the hearing held on November 30, 2022, Petitioner was determined to be eligible for \$104 in monthly FAP benefits. The Department presented the Budget Summary from the December 7, 2022, Notice of Case Action which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits.

All countable earned and unearned income available to the client 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 considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2023), p. 35. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of \$42; and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$█ as unearned income. BEM 503, pp. 36-37; BEM 660 (October 2021), pp. 1-2; RFT 248 (January 2023), p. 1. The Department will also count the gross amount of retirement income including pensions as unearned income. BEM 503, p.29.

The Department concluded that Petitioner had unearned income in the amount of \$█. The Department representative testified that it specifically considered Petitioner's monthly SSI in the amount of \$█ as documented in the SOLQ presented for review, the \$█ monthly SSP benefit, and \$█ in a monthly pension. Petitioner did not dispute the amounts relied upon by the Department. Upon review, the Department properly calculated Petitioner's unearned income.

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (January 2022), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.

- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2022), p. 1; BEM 556 (January 2023), p. 1-8.

In this case, Petitioner's group did not have any earned income, thus, there was no applicable earned income deduction. There was no evidence presented that Petitioner had any out-of-pocket dependent care, child support or medical expenses. Therefore, the budget properly did not include any deduction for dependent care, child support or medical expenses. The Department properly applied a standard deduction of \$193 which was based on Petitioner's confirmed group size of one. Additionally, the Department properly applied the \$167 homeless shelter deduction and the \$30 telephone standard, as it was determined that Petitioner is not eligible for any other shelter deductions or deductions to income. BEM 554, pp. 1-34; RFT 255 (October 2022), p. 1.


After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income including the \$193 standard deduction, and the \$167 homeless shelter deduction to determine that Petitioner had net income of \$[REDACTED]. Based on net income of \$[REDACTED] Petitioner's one-person household is eligible for \$104 in monthly FAP benefits. RFT 260 (October 2022), p. 9.

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 calculated the amount of Petitioner's FAP benefits.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
Hearings@michigan.gov**

Interested Parties

BSC4
M Holden
D Sweeney
MOAHR

Via First Class Mail :

Petitioner

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