



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 7, 2023
MOAHR Docket No.: 23-006389
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 November 1, 2023. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's reported changes to affect her 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. On August 24, 2023, the Department received Respondent's completed Redetermination.
2. On [REDACTED], Petitioner submitted a State Emergency Relief (SER) application which prompted the Department to issue a Verification Checklist (VCL) with a due date of September 5, 2023.
3. On August 31, 2023, Petitioner signed a new lease and visited the local office in person, signing the login sheet indicating that she was there to submit paperwork and her lease. The person at the front desk made a copy of the lease for her and told her to put it in the drop box which she did.
4. On September 14, 2023, the Department issued a Notice of Case Action to Petitioner advising her that her FAP benefits were approved for \$72.00 effective

October 1, 2023 based upon a group size of one with \$0.00 earned income, \$ [REDACTED] in unearned income, the \$198.00 standard deduction, and no other expenses.

5. On September 19, 2023, the Department received a copy of a Change Report from Petitioner indicating that she had a change in address in addition to housing expenses. Petitioner provided another copy of her new lease.
6. Petitioner has a rental expense of \$1,109.00 per month which includes water, gas, sewer, and trash. Petitioner is separately responsible for the electric, cable, and telephone services.
7. On October 4, 2023, the Department received Petitioner's request for hearing disputing the calculation of her FAP benefit rate and failure to consider her housing expenses.
8. On October 9, 2023, the Department updated Petitioner's housing expenses which increased Petitioner's FAP benefit rate to \$291.00 effective November 2023. No supplement was issued for October 2023.

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 her FAP benefit rate. Petitioner believes that her FAP benefit rate for October 2023 should include her verified housing expenses. Pursuant to policy, when a client reports a change in circumstances, the Department has 10-days to act on the reported change. BAM 220 (July 2023), p. 7. Changes which increase the client's benefit must be effective no later than the first allotment issued 10 days after the date the change was reported. *Id.* Supplemental issuances may be necessary. *Id.* Petitioner submitted her lease along with other verifications and documents on August 31, 2023 as noted by the sign-in sheet for the local office. Somehow, the lease was misplaced. Petitioner again reported the change in circumstances on September 19. Because Petitioner first reported the change on August 31, 2023 and the Department's actions in misplacing the documents are through no fault of Petitioner, the changes should have been considered and

affected Petitioner's benefit as of October 1, 2023, the first allotment after the 10-day processing period. This decision proceeds in the calculation of Petitioner's benefit rate with consideration of Petitioner's housing expenses for October 2023, ongoing.

To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client'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. 4-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Neither party disputed Petitioner's \$[REDACTED] in unearned income per month.

After consideration of income, the Department considers all appropriate deductions and expenses. 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 Senior, Disabled, or disabled Veterans (SDV)

BEM 550 (April 2023), pp. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), pp. - 6.

The Department properly budgeted the standard deduction of \$198.00. RFT 255 (October 2023), p. 1; BEM 556, p. 4. No evidence was presented that Petitioner has dependent care expenses, child support expenses, or medical expenses as an SDV. After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each item from the gross income for a total of \$[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). Petitioner is responsible for rent of \$1,109.00 per month in addition to all utilities. The heat and utility standard deduction (H/U) is provided to FAP groups whose heat is not included in their rental expense. BEM 554, p. 18. When a client is not responsible for heating and/or cooling costs, the client may receive utility standard deductions for non-heat electric, water and/or sewer, telephone, cooking fuel,

and trash as applicable. BEM 554, p. 22-25. Petitioner is responsible for electric, cable, and telephone services. Therefore, she may receive the non-heat electric deduction of \$157.00 and the telephone deduction of \$31.00. The expenses and factors outlined here are the only expenses considered for purposes of calculating the FAP budget and determining eligibility. After each item is considered, Petitioner's total housing cost is added together (\$1,297.00) and reduced by 50% of Petitioner's AGI (\$ [REDACTED]) resulting in an excess shelter cost of \$932.00. *Id.*

Next, Petitioner's excess shelter cost is deducted from her AGI resulting in a negative number and no income. *Id.* Because Petitioner has \$0.00 Net Income she is eligible for the full FAP benefit rate for a group size of one totaling \$291.00. BEM 556, p. 6; RFT 260 (October 2023), p. 24. The Department did not properly calculate Petitioner's FAP benefit rate for October 2023.

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 did not act in accordance with Department policy when it calculated Petitioner's FAP benefit rate for October 2023.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP benefit rate for October 2023;
2. If applicable, issue supplements to Petitioner for benefits not previously received; and,
3. Notify Petitioner in writing of its decision.

AM/mp



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 :

DHHS
MDHHS-Wayne-18-Hearings
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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