



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 6, 2023  
MOAHR Docket No.: 23-006474  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 2, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Lekeitia Cokley, Assistant Payments Supervisor.

### **ISSUE**

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) budget to determine his monthly benefit amount?

### **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 benefits.
2. On August 29, 2023, Petitioner submitted a redetermination of FAP benefits to MDHHS, reporting that:
  - a. Petitioner is a group size of three, consisting of her two minor children and herself, and no group members are S/D/V individuals (senior (over [REDACTED] years old), disabled or a disabled veteran).
  - b. Petitioner is employed at [REDACTED] (Employer 1) and as a home health aide with [REDACTED] (Employer 2).
  - c. Petitioner receives child support for one of her children.

- d. Petitioner pays \$550.00 per month in housing expenses and is responsible for paying for her own utilities.
3. On September 26, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that her monthly FAP amount would be decreasing to \$51.00 per month for a three-person FAP group (Exhibit A, pp. 26-31).
4. On October 3, 2023, Petitioner submitted a verbal hearing request to dispute the reduction in her monthly FAP benefits (Exhibit A, pp. 3-5).

### **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. MDHHS (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 verbally requested a hearing to dispute the determination of her monthly FAP benefit amount<sup>1</sup>.

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 (see Exhibit A, pp. 33-34). During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored a benefit group size of three, with no senior (over ■ years old), disabled or disabled veteran (S/D/V) group members. Petitioner confirmed this was correct.

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. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, MDHHS is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the

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<sup>1</sup> Clients may verbally request hearings to dispute ongoing FAP eligibility. BAM 600 (March 2021) p. 2.

benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (October 2022) pp. 5-6. A standard monthly amount must be determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505, pp. 8-9. Income received twice per month is added together. BEM 505, pp. 7-9.

In Petitioner's case, she receives earned income from Employer 1 and Employer 2. MDHHS testified that they relied upon Petitioner's three paychecks received in September from Employer 1, obtaining the income information from the Work Number database (see Exhibit A, pp. 24-25) and September income from Employer 2, obtained from the Consolidated Inquiry database (see Exhibit A, p. 19). Petitioner is paid a monthly amount from Employer 2 of \$ [REDACTED]. When converting Petitioner's weekly pay from Employer 1 to a standard monthly amount, the monthly total is \$ [REDACTED]. Adding Employer 1 and Employer 2 income totals \$ [REDACTED]. This is lower than \$2,104.00 in income as MDHHS relied upon. Since MDHHS did not properly calculate Petitioner's income amount, MDHHS did not act in accordance with policy in determining Petitioner's eligibility for FAP benefits.

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 determined Petitioner's monthly FAP benefit amount.

### **DECISION AND ORDER**

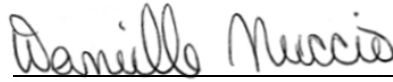
Accordingly, the Department's decision is **REVERSED**.

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. Recalculate the FAP budget for October 1, 2023, ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from October 1, 2023, ongoing;

3. Notify Petitioner of its decision in writing.

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

**Via-Electronic Mail :**

**Interested Parties**  
MDHHS-Wayne-57-Hearings  
N. Denson-Sogbaka  
B. Cabanaw  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**

  
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