



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: December 11, 2023
MOAHR Docket No.: 23-007054
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, 2023, from Lansing, Michigan. ██████████ ██████████ Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Aley Haught, Assistance Payments Supervisor (APS), and Xenia Chavez, Eligibility Specialist (ES).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibit A, pp. 1-28.

ISSUE

Did the Department properly determine Petitioner's eligibility for the Food Assistance Program (FAP)?

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's FAP benefits were \$████████ per month, which was based on a budget that included: unearned income of \$████████ a housing expense of \$████████ and the full heat/utility standard of \$████████ (Exhibit A, pp. 11-14)
2. On September ██████ 2023, Petitioner submitted a Redetermination for his FAP case and reported income from Social Security Administration issued RSDI benefits in the amount of \$████████ monthly. A housing expense of \$████████ for monthly rent was also reported, which was noted to include utilities. (Exhibit A, pp. 6-10)

3. On October █ 2023, Petitioner returned a Verification Checklist indicating he did not have a heat expense or non-heat electric expense as all utilities are paid by the landlord. (Exhibit A, pp. 18-19)
4. The Department verified Petitioner's RSDI income had increased to \$█ with a data exchange with the social Security Administration. (Department Testimony)
5. The Department redetermined Petitioner's eligibility for FAP with the increased income amount and removing the utility expense. (Exhibit A, pp. 15-17)
6. On October █ 2023, a Notice of Case Action was issued to Petitioner stating the FAP benefit would decrease to \$█ per month. (Exhibit A, pp. 20-24)
7. On October 17, 2023, Petitioner requested a hearing contesting the department's determination regarding the amount of his FAP benefits. (Exhibit A, pp. 4-5)

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. 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 calculating the FAP budget, the Department considers the gross benefit amount of Social Security Administration issued Retirement Survivors and Disability Insurance (RSDI) as unearned income. BEM 503, January 1, 2023, pp. 29-30.

For FAP, a shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (April 1, 2023), p. 13. Shelter expenses include property taxes and insurance. BEM 554 p. 15. The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees etc. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. FAP groups whose heat is included in their rent may still qualify for the h/u standard. Some additional ways include but are not limited to, receipt of the Home Heating Credit (HHC) or a Low Income Home Energy Assistance Payment (LIHEAP). The amount of either payment must be greater than \$20 in the month of application or in the immediately preceding 12 months prior to the application month. BEM 554, p. 16. FAP groups who pay for cooling (including room air conditioners) are

eligible for the h/u standard if, they have the responsibility to pay for non-heat electric. BEM 554 p. 18. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554 p. 22.

The Department re-determined Petitioner's eligibility for FAP as of October 2023. The Department considered Petitioner's income from RSDI benefits, the standard deduction, Petitioner's housing expense, and removed utility expenses based on Petitioner's statements that the landlord pays all utilities. (Exhibit A, pp. 15-17). On October █████ 2023, a Notice of Case Action was issued to Petitioner stating the FAP benefit would decrease to \$█████ per month. (Exhibit A, pp. 20-24).

Petitioner did not dispute the amount of his RSDI income or that he did not have utility expenses. Petitioner noted that his shelter expense is almost all of his income. Therefore, he does not have money to eat. Petitioner reported there had been no changes and questioned why his benefits decreased. (Petitioner Testimony).

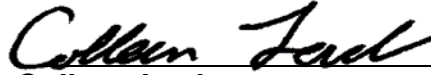
As discussed, Petitioner was previously receiving the full heat and utility standard. It appears this may have been in error based on Petitioner's statements that he did not have utility expenses. Accordingly, the Department properly removed the heat and utility expense when Petitioner's FAP budget was recalculated. Overall, the evidence establishes that the Department properly determined ongoing FAP eligibility for Petitioner based upon the information available.

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's eligibility for FAP.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
Kimberly Kornoelje
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MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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