



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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

Date Mailed: December 15, 2023
MOAHR Docket No.: 23-007710
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on December 5, 2023. Petitioner was represented by Authorized Hearing Representative (AHR), [REDACTED] The Michigan Department of Health and Human Services (MDHHS or Department) did not appear.

ISSUE

Did MDHHS properly determine Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits.
2. On October 10, 2023, MDHHS issued a Notice of Case Action indicating that her FAP benefit rate would decrease to \$ [REDACTED] per month, beginning November 1, 2023 (Exhibit 1, p. 5). The decrease was due to changes in unearned income, medical expenses, and shelter deduction (Exhibit 1, p. 6).
3. On October 19, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' calculation of her FAP benefit rate (Exhibit 1, 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 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, MDHHS decreased Petitioner's FAP benefit rate to \$██████, effective November 1, 2023 ongoing. Petitioner filed the Request for Hearing to dispute the reduction in her FAP benefits. MDHHS did not appear at the hearing. Thus, this Hearing Decision is based on AHR's testimony at the hearing and the documents in the Hearing Packet that MDHHS prepared for the hearing, which were admitted as Petitioner's Exhibit 1.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. 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. Prospective income is income not yet received but expected. BEM 505 (October 2022), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. For Retirement, Survivors, Disability Insurance (RSDI) income, MDHHS counts the gross amounts as unearned income. BEM 503 (January 2023), pp. 29-30.

MDHHS determined that Petitioner received \$██████ per month in RSDI. Petitioner did not dispute this amount. Because Petitioner received the RSDI payment monthly, there was no need to standardize the amount further. There was no evidence of any other income available to Petitioner. Therefore, MDHHS properly determined that Petitioner's unearned income was \$██████ based on his RSDI income.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), p. 1. SDV groups are eligible for the following deductions.

- Earned income deduction
- Dependent care expense
- Court ordered child support and arrearages paid to non-household members
- Standard deduction based on group size
- Medical expenses for SDV members that exceed \$35
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1; BEM 554 (April 2023), p. 1; BEM 556 (October 2023), p. 3.

No evidence was presented that Petitioner had earned income, dependent care expenses, or court-ordered child support. MDHHS budgeted \$0.00 in medical expenses for Petitioner. The AHR disputed that amount at the hearing and testified that Petitioner pays out-of-pocket for a home help aid who helps with her activities of daily living and provides medical transportation. The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness is an allowable medical expense. BEM 554, pp. 10-11.

The AHR testified that Petitioner informed MDHHS of the medical expense and that she submitted a statement from the home help aid to MDHHS per its request. MDHHS did not appear at the hearing to provide testimony regarding whether Petitioner's home help aid expense could be considered as a verified medical expense or its attempts to verify the information.

MDHHS must obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. Verification is usually required at application/redetermination and when a reported change affects eligibility or benefit level. *Id.* To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.* If no information is available, MDHHS must use its best judgement. *Id.*

The record shows that Petitioner reported out-of-pocket medical expenses to MDHHS. Because MDHHS did not appear at the hearing, no testimony was provided regarding the validity of the expense or how MDHHS determined that Petitioner's verified medical expenses were \$0.00 for the FAP budget. Without this information, it is not possible to determine whether MDHHS properly determined Petitioner's FAP benefit rate. It is also not clear whether MDHHS properly requested verification of this information from Petitioner, pursuant to policy.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it decreased Petitioner's FAP benefit rate.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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, from November 1, 2023, ongoing, requesting additional verification from Petitioner, if necessary;
2. Issue supplemental payments to Petitioner for an FAP benefits that she was eligible to receive but did not, from November 1, 2023, ongoing; and
3. Notify Petitioner in writing of its decision.



LJ/tm

Linda Jordan
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
Tara Roland 82-17
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8655 Greenfield
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**MDHHS-Wayne-17-
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Interested Parties
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BSC4

Via-First Class Mail :

Authorized Hearing Rep.
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