



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  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: March 6, 2024  
MOAHR Docket No.: 23-007925  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on February 28, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Jacob Frankmann, Assistant Payment Supervisor.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective October 1, 2023 ongoing?

### **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 for a group size of one (1).
2. Petitioner is disabled and receives Supplemental Security Income (SSI) from the Social Security Administration (SSA) of [REDACTED] per month and State SSI Payment (SSP) from the State of Michigan of [REDACTED] per month, as prorated over a three (3) month period.
3. On August 4, 2023, the Department sent a redetermination application to Petitioner for her FAP benefits. The redetermination application was due on August 24, 2023 and Petitioner returned it to the Department on August 31, 2023. Petitioner confirmed she is the only member of her household, SSI is her only source of

income, and she is responsible for paying her heat and electric utilities. (Exhibit A, pp. 6 – 10).

4. On [REDACTED] 2023, Petitioner submitted an application for State Emergency Relief (SER) to the Department and disclosed a rent amount of \$188.
5. On September 20, 2023, the Department completed processing Petitioner's redetermination application including calculating her budget and issued a Notice of Case Action (NOCA) approving Petitioner for FAP benefits in the amount of \$222 effective October 1, 2023 ongoing. (Exhibit A, pp. 14 – 17).
6. On November 9, 2023, Petitioner submitted a Request for Hearing to the Department disputing the amount of her 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. 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.

Petitioner requested a hearing on November 9, 2023 to dispute the amount of her FAP benefits effective October 1, 2023 ongoing. (Exhibit A, pp. 3 – 5). The Department issued a NOCA which approved Petitioner for \$222 per month in FAP benefits, effective October 1, 2023. (Exhibit A, pp. 16 – 17).

The Department must periodically redetermine an individual's eligibility for active programs, including FAP, and that is accomplished through a redetermination application. BAM 210 (October 2022), p. 1. In this case, Petitioner was due for a redetermination of her FAP eligibility and benefit for a benefit period beginning October 1, 2023. Petitioner received and returned her redetermination package to the Department on August 31, 2023. In the redetermination process, Petitioner reported she is the only member of her household, SSI is her only source of income, and she is responsible for paying her heat and electric utilities. (Exhibit A, pp. 6 – 10).

The Department begins the redetermination process by reviewing Petitioner's income sources and amounts. BAM 210, pp. 18 – 19. For SSI and SSP, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 35 – 36. The Department budgeted Petitioner's monthly income as [REDACTED] based on her

receipt of [REDACTED] per month in SSI and a prorated monthly amount of [REDACTED] from SSP. (Exhibit A, p. 14). Petitioner testified that the amounts used by the Department were correct.

Once countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is disabled, she is considered a senior/disabled/veteran (SDV) household. BEM 550 (April 2023), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (April 2023) p. 1; BEM 556 (January 2023) pp. 3 – 6.

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Groups of 1 to 3 receive a standard deduction of \$198. RFT 255 (October 2023). The Department properly deducted \$198 from Petitioner's countable income, as shown on the budget as well as the September 20, 2023 NOCA. (Exhibit A, p. 14).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. Petitioner did not assert any excess medical expenses on her redetermination application or during the hearing therefore no deduction for excess medical expenses is reflected on the budget. (Exhibit A, p. 14).

Petitioner also testified that she has no dependent care expenses or court ordered child support expenses and therefore, no deduction for either of those expenses are reflected on the budget. (Exhibit A, p. 14).

Before determining the excess shelter deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting the standard deduction, dependent care expenses, medical expenses for SDV members, and court ordered child support payments made by a member of the group from the countable income. The Department properly determined Petitioner's AGI to be [REDACTED] her gross income of [REDACTED] less the \$198 standard deduction, the only deduction Petitioner is eligible for. (Exhibit A, p. 14).

Next, the Department determines any excess shelter expense deduction. To calculate this amount, the Department reviews Petitioner's housing and utility expenses, if any. Petitioner submitted an SER application to the Department on [REDACTED] 2023 and reported her rent amount as \$188 per month on that application. Petitioner testified that \$188 was the correct amount of her rent at the time of her redetermination and that she was responsible for all heat, electric, and other utilities for her household. This was the amount of rent the Department used in calculating Petitioner's excess shelter expense. (Exhibit A, p. 15).

A FAP group that has heating and other utility expenses, separate from the rental payment, is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17. The h/u standard is the most favorable and maximum utility standard available to a client, and FAP groups that receive the h/u standard do not receive any other individual utility standards. BEM 554, p. 16. The standard amount is \$680. RFT 255. The Department properly used the amount of \$680 for h/u when calculating Petitioner's excess shelter expense. (Exhibit A, p. 15).

Once Petitioner's housing and utility expenses have been determined, the Department must add those amounts together for a total shelter amount. Next, the Department must subtract 50% of Petitioner's AGI from the total shelter amount. This determines Petitioner's excess shelter deduction. In FAP groups with an SDV member, the excess shelter amount is not limited. BEM 554, p. 1.

In Petitioner's case, the Department properly added together Petitioner's monthly rent of \$188 and the h/u standard of \$680 to arrive at Petitioner's total shelter amount of \$868. The Department subtracted 50% of Petitioner's [REDACTED] AGI, in the amount of \$365, from the total shelter amount to determine Petitioner's excess shelter deduction to be \$503. (Exhibit A, p. 15). The Department then subtracted the excess shelter deduction of \$503 from Petitioner's AGI of [REDACTED] which determined Petitioner's net monthly income, for purposes of FAP, to be [REDACTED] (Exhibit A, p. 14). The Department's calculations were made consistent with policy.

Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table of RFT 260. Based on Petitioner's one person FAP group size and net income of [REDACTED] Petitioner's monthly benefit beginning October 2023 is [REDACTED] RFT 260 (October 2023), p. 4. This is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating, based on the information available to it, Petitioner's monthly FAP allotment for October 2023 ongoing.

During the hearing, Petitioner testified that she understood, from news reports, that beginning on October 1, 2023, Governor Whitmer approved all FAP recipients to begin receiving the maximum FAP benefits. The Department was unaware of any such changes or adjustments to the FAP program, and Petitioner did not identify any legal

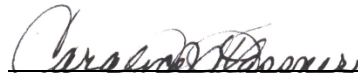
source. A review of applicable law and policy shows that, while the maximum FAP benefits based on group sizes increased effective October 1, 2023, the amount of FAP benefits a household is eligible to receive remains dependent on the calculation described in this decision, which, as fully explained, was conducted in accordance with Department policy in determining Petitioner's eligibility for monthly FAP benefits of [REDACTED]

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 FAP benefits effective October 1, 2023.

**DECISION AND ORDER**

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

CML/ml

  
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**Caralyce M. Lassner**  
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**  
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**Interested Parties**

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**Via First Class Mail:**

**Petitioner**

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