



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 13, 2023  
MOAHR Docket No.: 23-007967  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

### **HEARING DECISION**

On November 15, 2023, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute the decrease in her Food Assistance Program (FAP) benefits. As a result, a hearing was scheduled to be held on December 12, 2023, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department) had Princess Ogundipe, Assistance Payments Record Supervisor, appear as its representative. Neither party had any additional witnesses.

A 15-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A. There were no proposed exhibits offered by Petitioner.

### **ISSUE**

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

### **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 a senior/disabled/veteran household.
2. Petitioner has a household size of 1.
3. On August 7, 2023, Petitioner submitted a Mid Certification for the month of September 2023.

4. Petitioner received unearned income of \$1,777.90 per month from RSDI. Since August 2022, the Department incorrectly budgeted \$1,465.00 for Petitioner's RSDI income.
5. Petitioner pays \$164.90 per month for a Medicare Part B premium.
6. In December 2022, Petitioner reported \$386.00 in monthly rent. Petitioner's monthly rent was not updated at the time Petitioner reported it.
7. The Department redetermined Petitioner's eligibility for FAP with the increased income and monthly rent amount.
8. On September 30, 2023, a Notice of Case Action was issued to Petitioner stating her FAP benefit would decrease to \$23.00 per month.
9. On November 15, 2023, Petitioner requested a hearing to dispute the Department's decision.

### **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.

In this case, the Department re-determined Petitioner's eligibility for FAP in September 2023. The Department considered Petitioner's income from RSDI benefits, the standard deduction, a medical deduction, Petitioner's housing expenses, and the non-electric standard.

On September 30, 2023, a Notice of Case Action was issued to Petitioner stating her FAP benefit would decrease to \$23.00 per month.

Petitioner did not dispute the amount of her RSDI income or the allowable medical and shelter expenses that were used in computing her FAP budget. Petitioner stated she had additional documentation for medical expenses that were accrued after her FAP budget was computed.

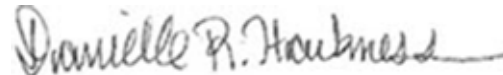
As discussed, the Department found that Petitioner's RSDI income was incorrect. Therefore, the Department verified the correct amount of RSDI income and Petitioner's FAP budget was recalculated. Overall, the evidence establishes that the Department properly determined Petitioner's FAP eligibility based upon the information available. It appears that Petitioner has further information regarding her medical expenses. Petitioner is encouraged to provide that information to the Department. However, based on the information that the Department had at the time the eligibility determination was made, the Department acted in accordance with Department policy.

### **DECISION AND ORDER**

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.

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

DH/nr



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**Danielle R. Harkness**  
Administrative Law Judge  
for Elizabeth Hertel, Director  
Department of Health and Human Services

**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**  
Yaita Turner  
Oakland County Pontiac-Woodward  
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**Interested Parties**  
Oakland 4 County DHHS  
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M. Holden  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
[REDACTED], MI [REDACTED]