



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

██████████  
██████████  
██████████, MI ██████████

Date Mailed: January 26, 2024  
MOAHR Docket No.: 23-009371  
Agency No.: ██████████  
Petitioner: ██████████

**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 January 17, 2024, via teleconference. Petitioner appeared and represented herself. Sunshine Simonson, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS offered documents into evidence at the hearing, which were admitted as MDHHS Exhibit A, pp. 1-54).

### **ISSUE**

Did MDHHS properly determined 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. On ██████████ 2023, Petitioner applied for FAP benefits (Exhibit A, p. 10).
2. On November 1, 2023, MDHHS conducted an eligibility interview with Petitioner (Exhibit A, p. 18).
3. On November 29, 2023, MDHHS approved Petitioner for a \$████.00 supplement for FAP benefits from October 27, 2023 to October 31, 2023 (Exhibit A, p. 33).

MDHHS approved Petitioner for FAP benefits at a rate of \$ [REDACTED] per month, beginning December 1, 2023 (Exhibit A, p. 33).

4. On November 30, 2023, Petitioner filed a Request for Hearing to dispute her FAP benefit rate (Exhibit A, pp. 5-7).
5. On December 5, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that she was approved for FAP benefits at a rate of \$ [REDACTED] for a household of three, effective November 1, 2023 to November 30, 2023 (Exhibit A, p. 53). Beginning January 1, 2024, MDHHS determined that Petitioner's FAP benefit rate was \$ [REDACTED] per month (Exhibit A, p. 53).

### **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, Petitioner requested a hearing to dispute her FAP benefit rate. The record shows that MDHHS initially approved Petitioner for FAP benefits at a rate of \$ [REDACTED] per month (Exhibit A, pp. 1, 48). However, her benefits were pending due to a previously requested administrative hearing in Case No. 23-007504. Administrative Law Judge Amanda Marler dismissed that case because Petitioner did not appear at the hearing. After the dismissal, MDHHS updated Petitioner's earned income and determined that Petitioner was eligible for \$ [REDACTED] in FAP for the month of November 2023, \$ [REDACTED] in FAP benefits for the month of December 2023, and \$ [REDACTED] in FAP benefits, from January 1, 2024 to September 30, 2024 (Exhibit A, pp. 48, 53).

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable earned and unearned income. BEM 500 (July 2020), 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 (November 2021), 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.

MDHHS introduced evidence to show that Petitioner received earned income as an Adult Home Help Provider. MDHHS initially budgeted \$[REDACTED] for Petitioner's earned income for October through December 2023 (Exhibit A, pp. 32, 34). However, while Case No. 23-007504 was pending, MDHHS received updated information regarding Petitioner's home help income. MDHHS introduced evidence that Petitioner received \$[REDACTED] in home help income in October 2023 and \$[REDACTED] beginning November 1, 2023 ongoing (Exhibit A, p. 46). Petitioner did not dispute these amounts.

MDHHS introduced a FAP Net Income Budget to show how it calculated Petitioner's FAP benefit rate for November 2023 (Exhibit A, p. 49). MDHHS budgeted \$[REDACTED] in employment income for Petitioner. Because this amount was received on a monthly basis, there was no need to standardize the amount further. There was no other evidence of earned or unearned income for the household.

After income is calculated, MDHHS must determine applicable deductions. Petitioner's FAP group is not considered a Senior/Disabled/Disabled Veteran (SDV) group. BEM 550 (April 2023), pp. 1-2. Non-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
- Excess shelter up to the maximum in RFT 255

BEM 550, p. 1-2; BEM 554 (October 2022), p. 1; BEM 556 (October 2022), pp. 1-7.

Although there was evidence of earned income, MDHHS budgeted \$0.00 for the earned income deduction (Exhibit A, p. 49). Pursuant to Department policy, gross countable earned income is reduced by a 20 percent earned income deduction. BEM 550, p. 1. It is unclear from the record why MDHHS did not include the earned income deduction in the budget for November 2023. Therefore, MDHHS has not demonstrated that it properly calculated Petitioner's FAP benefit rate for the month of November 2023.

MDHHS did not introduce a budget for December 2023. Because no budget was introduced, it is not possible to determine whether MDHHS properly calculated Petitioner's FAP benefit rate for that month.

For January 2024 ongoing, MDHHS introduced a FAP Net Income Budget, which showed that she was eligible for \$[REDACTED] in FAP benefits (Exhibit A, p. 51). MDHHS budgeted \$[REDACTED] in earned income. As stated above, Petitioner did not dispute this amount. Regarding deductions, MDHHS budgeted \$191.00 for the earned income deduction and \$198.00 for the standard deduction, which brought Petitioner's adjusted gross income (AGI) to \$[REDACTED].

Next, MDHHS is required to determine the excess shelter deduction, which is based on a client's verified shelter expenses and utilities. Petitioner testified that she was not

responsible for any shelter expenses because she did not pay rent or utilities. Because there were no verified housing expenses, Petitioner was not entitled to an excess shelter deduction, and MDHHS properly determined that Petitioner's excess shelter deduction was \$0.00. Thus, Petitioner's net income for FAP was \$[REDACTED]. A household of three with a net income of \$[REDACTED] is entitled to receive \$[REDACTED] per month in FAP benefits. RFT 260 (October 2023), p. 9.

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 acted in accordance with Department policy when it determined Petitioner's FAP benefit rate from January 1, 2024 ongoing, but failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefit rate for November and December 2023.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to Petitioner's FAP benefit rate beginning January 1, 2024 ongoing, and **REVERSED IN PART** with respect to Petitioner's FAP benefit rate from November 1, 2023 to December 31, 2023.

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 to December 31, 2023;
2. Issue supplemental payments to Petitioner for any FAP benefits that she was eligible to receive, but did not, from November 1, 2023 to December 31, 2023; and
3. Notify Petitioner of its decision in writing.

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  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228  
**MDHHS-Wayne-17-  
hearings@michigan.gov**

**Interested Parties**  
M. Holden  
N. Denson-Sogbaka  
B. Cabanaw  
BSC4

**Via-First Class Mail :**

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