



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: January 30, 2024
MOAHR Docket No.: 23-009722
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, hearing was held by telephone on January 24, 2024. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Caitlyn Dodge, Family Independence Manager.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective January 1, 2024?

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. (Exhibit A, p. 9).
2. Petitioner is over age [REDACTED] and receives Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration (SSA). (Exhibit A, pp. 6-8).
3. On December 9, 2023, the Department received information from SSA that Petitioner's RSDI payments would be increased to [REDACTED] beginning with her January 2024 payment.

4. On December 9, 2023, the Department updated Petitioner's budget based on the increased income and issued a Notice of Case Action reducing Petitioner's FAP benefits to \$49.00 effective January 1, 2024. (Exhibit A, pp. 17-18).
5. On December 20, 2023, Petitioner's request for hearing, disputing the decrease in her FAP benefits, was received by the Department. (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 December 20, 2023 to dispute the decrease of her FAP benefits to \$49.00 monthly effective January 1, 2024. (Exhibit A, pp. 3-5). The Department issued a Notice of Case Action decreasing Petitioner's FAP benefits based on an increase in Petitioner's unearned income effective January 1, 2024. (Exhibit A, pp. 12-13).

When the Department is aware of a change in income that will affect eligibility or benefit level, the Department must complete a budget calculation. BEM 505 (October 2023), p. 10. To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department must consider all countable earned and unearned income available to the Petitioner. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. For Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI), the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 29, 35.

In this case, the Department testified that it became aware of a cost-of-living increase in Petitioner's RSDI on December 9, 2023. This information is obtained by the Department from the State On-Line Query (SOLQ), the data exchange the Department uses to access information from the Social Security Administration (SSA) concerning individual's federal benefits. In light of the increase in Petitioner's unearned income from RSDI, the Department completed an updated budget. (Exhibit A, pp. 12-13). The Department budgeted [REDACTED] in countable unearned income, which is the amount of

Petitioner's RSDI benefit beginning January 2024. (Exhibit A, pp. 6, 12). Petitioner did not dispute this increased RSDI benefit.

After 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 over 60 years of age, 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.

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.

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 \$198.00 RFT 255 (October 2023). The Department deducted \$198.00 from Petitioner's countable income, as shown on the budget as well as the December 9, 2023 Notice of Case Action. (Exhibit A, pp. 12 and 17-18).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35.00 for the SDV member will receive a standard medical deduction of \$165.00 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. The Department utilized the standard medical expense deduction of \$165.00 based on Petitioner's payment of Part B Medicare insurance premiums.

Before determining the excess shelter deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting the earned income deduction, 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]

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 testified that she had a rent expense of \$900.00 per month in December 2023

and pays all heat, electric, and other utilities for the household. This testimony is consistent with the historical information maintained by the Department from prior reports of Petitioner. (Exhibit A, pp. 11, 14).

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 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 \$680.00. RFT 255 (October 2023). The Department used the amount of \$680.00 for h/u when calculating Petitioner's excess shelter expense. (Exhibit A, p. 14).

Once Petitioner's housing and utility expenses have been determined, the Department adds those amounts together for a total shelter amount. The Department then subtracts 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.

In Petitioner's case, the Department properly added together Petitioner's monthly \$900.00 rent and \$680.00 h/u standard to arrive at Petitioner's total shelter amount of \$1,580.00. The Department subtracted 50% of Petitioner's AGI, in the amount of [REDACTED] from the total shelter amount to determine Petitioner's excess shelter deduction to be \$785.00. (Exhibit A, p. 14). The Department then subtracted the excess shelter deduction of \$785.00 from Petitioner's AGI of [REDACTED] which determined Petitioner's net monthly income, for purposes of FAP, to be [REDACTED] (Exhibit A, p. 12). 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 January 1, 2024 is \$49.00. RFT 260 (October 2023). 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 January 1, 2024 ongoing.

The Department included evidence of, and Petitioner testified to, actions related to Petitioner's FAP benefits that occurred after Petitioner's request for hearing of December 20, 2023, including another decrease in FAP benefits effective February 2024 due to the removal of Petitioner's medical expense deduction after Petitioner stopped being responsible for her Part B Medicare premium and the increase in her monthly rent that she reported to the Department on January 4, 2024. As those actions were taken subsequent to the issue presented in the request for hearing and are based on additional changes in Petitioner's expenses, any dispute Petitioner has related to those actions are not a hearable issue at this time. Petitioner may request a hearing to


dispute any actions taken by the Department subsequent to the Notice of Case Action issued December 9, 2023.

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 on December 9, 2023 when it decreased Petitioner's FAP benefits to \$49.00 effective January 1, 2024.

DECISION AND ORDER

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

CML/ml



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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

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MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
MI [REDACTED]