



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: February 9, 2024
MOAHR Docket No.: 23-009875
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 1, 2024. Petitioner was present and represented by [REDACTED] his authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by Shantel Williams, Assistant Payments Worker.

ISSUE

Did the Department properly determine monthly Petitioner's Food Assistance Program (FAP) benefits effective January 2024 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. (Exhibit A, p. 11).
2. Petitioner is a recipient of Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration (SSA) due to disability. (Exhibit A, p. 17).
3. On December 9, 2023, the Department received information from SSA that Petitioner's RSDI payments would be increased from [REDACTED] to [REDACTED] beginning with his January 2024 payment. (Exhibit A, p. 18).

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 from \$244.00 to \$227.00 effective January 2024. (Exhibit A, pp. 11, 13 – 16).
5. On January 3, 2024, the Department received Petitioner's hearing request, disputing the decrease in his FAP benefits. (Exhibit A, p. 3).

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's AHR requested a hearing on December 26, 2023 to dispute the decrease of Petitioner's FAP benefits to \$227.00 monthly effective January 1, 2024. (Exhibit A, p. 3). 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. 20 – 21).

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 RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 29, 35.

In this case, the Department became aware of an increase in Petitioner's RSDI on or about December 9, 2023 that would become effective January 1, 2024. (Exhibit A, pp. 20 – 21). This information was confirmed 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. (Exhibit A, pp. 17 – 19). In light of the increase in Petitioner's unearned income from RSDI, the Department completed an updated budget. (Exhibit A, pp. 13 – 16). The Department budgeted [REDACTED] in countable unearned income, which is the amount of Petitioner's

RSDI benefit beginning January 2024. (Exhibit A, pp. 17 – 18). The AHR confirmed this to be the correct 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 disabled, he 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.

Neither the Department nor the AHR assert Petitioner has any 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. 13, 21).

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. (Exhibit A, p. 15, see also pp. 13, 21).

Before determining the excess shelter deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting available deductions from total countable income. The Department properly determined Petitioner's AGI to be [REDACTED] based on [REDACTED] in countable income reduced by the \$198.00 standard deduction and the \$165.00 standard medical expense deduction. (Exhibit A, p. 13).

Next, the Department determines any excess shelter expense deduction. BEM 554, p. 13. To calculate this amount, the Department reviews Petitioner's housing and utility expenses, if any. BEM 556, pp. 5 – 6. The AHR testified that Petitioner has housing

and heat and electric expenses. 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. 16).

Once Petitioner's housing and the applicable utility expense standard 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. BEM 556, p. 5. The result of that calculation determines Petitioner's excess shelter deduction. BEM 556 p. 6. In FAP groups with an SDV member, the excess shelter amount is not limited. BEM 556, p. 6.

In Petitioner's case, the Department properly added together Petitioner's monthly housing expense of \$421.89, and \$680.00 h/u standard to arrive at Petitioner's total shelter amount of \$1,102.00. The Department properly 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 \$664.00. (Exhibit A, p. 16). The Department then properly subtracted the excess shelter deduction of \$664.00 from Petitioner's AGI of [REDACTED] which determined Petitioner's net monthly income, for purposes of FAP, to be [REDACTED] (Exhibit A, p. 13). The Department's calculations were made consistent with policy.

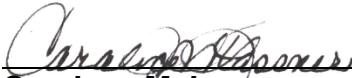
Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table found in RFT 260. Based on Petitioner's one person FAP group size and net income of [REDACTED] Petitioner's monthly benefit beginning January 2024 is \$227.00. 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 benefit for January 2024 ongoing.

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 monthly FAP benefits of \$227.00 effective January 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

Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089

MDHHS-Macomb-20-Hearings@michigan.gov

Interested Parties

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Via First Class Mail:

Authorized Hearing Rep.

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Petitioner

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