



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 14, 2024  
MOAHR Docket No.: 24-000239  
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 8, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Raven Douchard, Hearing Facilitator.

### **ISSUE**

Did the Department properly determine Petitioner's 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. On [REDACTED] 2023, Petitioner applied for FAP benefits. (Exhibit A, p. 1).
2. It is undisputed that Petitioner has a group size of three (3), comprised of herself and two (2) children, [REDACTED] (DW) and [REDACTED] (JW). (Exhibit A, pp. 14, 23).
3. On November 8, 2023, Petitioner was interviewed by the Department in connection with her application for FAP benefits.
4. The Department retrieved an employment & income verification report from Equifax – The Work Number and a Child Support – Payee report as part of its application processing. (Exhibit A, pp. 9 – 12).

5. On November 21, 2023, the Department processed Petitioner's application for benefits and issued a Notice of Case Action (NOCA) in Petitioner's case which determined Petitioner's eligibility as follows:
  - a. For October 31, 2023 – October 31, 2023: denied for exceeding the gross income limits for FAP, and
  - b. For November 1, 2023 ongoing: approved for \$766.00 per month for a FAP group size of 3.(Exhibit A, pp. 13 – 14).
6. After the Department issued the NOCA on November 21, 2023, the Department's system automatically received a report regarding Unemployment Compensation (UC) paid to Petitioner on and after November 11, 2023. (Exhibit A, p. 19).
7. On December 2, 2023, the Department's system automatically issued a second NOCA in Petitioner's case which decreased Petitioner's FAP benefits to \$362.00 per month, effective January 1, 2024 ongoing, due to changes in Petitioner's net unearned income as a result of the UC report. (Exhibit A, pp. 23 – 24).
8. On January 3, 2024, Petitioner requested a hearing to dispute changes in her FAP benefits.

### **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 applied for FAP benefits on [REDACTED] 2023 and was approved for a group size of three (3) for benefits in the amount of \$766.00 per month for November 1, 2023 ongoing. Her benefit amount was subsequently decreased to \$362.00 per month effective January 1, 2024 based on changes in her household income. (Exhibit A, pp. 13, 23). She requested a hearing on January 3, 2024 to dispute changes to her FAP benefits. (Exhibit A, p. 3).

When the Department receives an application for FAP benefits, it must determine if the applicant is eligible for assistance. BAM 115 (January 2023). Here, the Department concluded that Petitioner was not eligible for FAP in October based on her receipt of income but was eligible for monthly FAP benefits of \$766 starting November 2023. A \$766.00 monthly FAP allotment is the maximum a 3-person FAP group can receive. RFT 260 (October 2023), p. 1.

The Department explained that when its system became aware that Petitioner started receiving UC, it recalculated her FAP benefits based on this income and notified her that her FAP benefits were decreasing to \$362.00 monthly starting January 1, 2024.

When the Department is aware of a change in income that will affect eligibility or benefit level, the Department must complete a new budget calculation. BEM 505 (October 2023), p. 10. In determining 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. Prospective income is income not yet received but expected going forward. BEM 505, pp. 1, 6. The Department may only use prospective income if income verification was requested and received, payments were received by the client after the verifications were submitted, and there are no known changes in the income being prospected. BEM 505, p. 3. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of weekly amounts are multiplied by 4.3 and the average of bi-weekly amounts are multiplied by 2.15. BEM 505, pp. 8 – 9.

For income from unemployment and child support, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 6 – 7, 37 – 38.

The Department testified that following the issuance of the November 21, 2023 NOCA, the Department received an automated report with information from the Michigan Unemployment Insurance Agency (UIA). The report reflected that Petitioner received unemployment benefits in the amount of \$362.00 on November 11, 2023, \$724.00 on November 25, 2023, and \$724.00 on December 9, 2023. (Exhibit A, p. 19). The Department testified that based on this new information, the Department's system automatically processed a new budget and generated a new NOCA on December 2, 2023, effective January 1, 2024. (Exhibit A, pp. 20 – 24).

The new budget, completed on December 2, 2023, reflected countable unearned income of [REDACTED] (Exhibit A, p. 20). The Department testified that the countable unearned income included Petitioner's child support of [REDACTED] per month and Petitioner's unemployment income. The information the Department received from UIA reflects that Petitioner's ongoing unemployment compensation was [REDACTED] bi-weekly. (Exhibit A, p. 19). Petitioner confirmed both the amount of her child support and unemployment compensation during the hearing. Although Petitioner was concerned that the Department was considering child support of a third child, now an adult, the

Department's evidence showed that it was only considering child support Petitioner received for JW and DW, Petitioner's two (2) children in the FAP group.

Multiplying Petitioner's unemployment compensation by 2.15 to determine a standard monthly income amount, equals ██████████ per month. Adding Petitioner's child support of ██████████ per month equals the countable unearned income amount of ██████████ as reflected on the Department's budget. (Exhibit A, p. 20).

After calculating Petitioner's income, the Department determines whether Petitioner is entitled to any deductions from that income. 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's budget reflects that it subtracted the standard deduction of \$198.00. (Exhibit A, p. 20). Petitioner did not report any child care expenses or that she pays child support, nor is anyone in Petitioner's group senior, disabled, or a disabled veteran (SDV). Therefore, no additional deductions were taken from Petitioner's total income amount. The Department properly determined Petitioner's adjusted gross income (AGI) amount to be ██████████ (Exhibit A, p. 20).

Next, the Department must determine if Petitioner is eligible for an excess shelter deduction. BEM 554 (April 2023), p. 1. For groups without an SDV member, the excess shelter deduction is limited to \$672.00. BEM 554, p. 1; RFT 255.

To calculate this amount, the Department reviews Petitioner's housing and utility expenses, if any. 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. 16. 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. The Department adds Petitioner's housing and utility expenses 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.

The Department testified that in reliance on Petitioner's application and interview, Petitioner's rent expense was \$1,180.00 and, because Petitioner pays all heat, electric, and other utilities for the household, she was entitled to receive the maximum heat and utility standard of \$680.00. These amounts, added together, equal a total shelter amount of \$1,860.00 per month. 50% of Petitioner's AGI of ██████████ is ██████████ which, when subtracted from her total shelter amount, equals an adjusted excess shelter amount of \$851.00. (Exhibit A, p. 22). Because Petitioner's adjusted excess shelter amount exceeds the allowable maximum deduction, and there are no SDV members in Petitioner's group, the Department properly determined Petitioner's excess shelter deduction to be \$672.00. (Exhibit A, p. 22).

The Department then deducted Petitioner's excess shelter amount from her AGI to complete her net income budget and properly determined her net income to be [REDACTED] (Exhibit A, p. 20).


A FAP group of three (3) with a net income of [REDACTED] is eligible for FAP benefits in the amount of \$362.00 per month. RFT 260, p. 19. Therefore, the Department acted in accordance with policy in calculating Petitioner's monthly FAP allotment for January 1, 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 FAP monthly benefits.

### **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:**

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