



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

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: February 22, 2024
MOAHR Docket No.: 24-000348
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 14, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits for February 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. 1).
2. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) from the Social Security Administration (SSA) based on disability. (Exhibit A, pp. 12 – 14).
3. On January 11, 2024, the Department received information from SSA that Petitioner's RSDI payments would be increased from [REDACTED] to [REDACTED] beginning with her January 2024 payment. (Exhibit A, pp. 12 – 14).
4. On January 22, 2024, the Department completed a new budget computation based on Petitioner's RSDI benefits. (Exhibit A, pp. 4 – 7).

5. On January 11, 2024, the Department updated Petitioner's budget based on the increased income and issued a Notice of Case Action (NOCA) reducing Petitioner's FAP benefits from \$261.00 to \$253.00 effective February 1, 2024. (Exhibit A, pp. 15 – 16).
6. On January 18, 2024, Petitioner verbally requested a hearing, disputing the decrease in her FAP benefits. (Exhibit A, p. 3, Line 92).

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 January 18, 2024 to dispute the calculation of her budget and resulting FAP benefits. (Exhibit A, p. 3, Line 92). The Department issued a NOCA decreasing Petitioner's monthly FAP benefits to \$253.00 effective February 1, 2024 based on an increase in Petitioner's unearned income. (Exhibit A, pp. 15 – 16).

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), 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 January 11, 2024. 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 FAP budget. (Exhibit A, pp. 4 – 7). The Department budgeted [REDACTED] in countable unearned income, which is the

amount of Petitioner's RSDI benefit which began in January 2024. (Exhibit A, pp. 4 – 6, 12 – 16). Petitioner confirmed her receipt of this increased RSDI benefit amount.

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, 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.

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). Based on Petitioner's one-person FAP group, the Department properly deducted \$198.00 from Petitioner's countable income, as shown on the budget as well as the January 11, 2024 NOCA. (Exhibit A, pp. 5, 16).

Petitioner 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. 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 Petitioner also testified that she does not have out of pocket medical expenses in excess of \$35.00 and therefore, the Department did not include a deduction for that expense either. (Exhibit A, pp. 5, 16).

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 her rent increased on February 1, 2024 to \$575.00 per month and she pays for air conditioning and telephone utilities for the household. This testimony is consistent with proof of her rental expense Petitioner provided to the

Department prior to the NOCA and the Department's testimony that Petitioner pays a cooling expense. (Exhibit A, p. 11).

A FAP group that has heating and utility costs including cooling, 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. 7).

Once Petitioner's housing and utility expenses have been determined, the Department adds those amounts together for a total shelter amount. The Department must then subtract 50% of Petitioner's AGI from the total shelter amount. 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 \$575.00 rent and \$680.00 h/u standard to arrive at Petitioner's total shelter amount of \$1,255.00. 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 \$795.00. (Exhibit A, p. 7). The Department then subtracted the excess shelter deduction of \$795.00 from Petitioner's AGI of [REDACTED] which determined Petitioner's net monthly income, for purposes of FAP, to be [REDACTED]125.00. (Exhibit A, pp. 5, 16). 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 February 1, 2024 is \$253.00. RFT 260 (October 2023), p. 2. 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 February 1, 2024 ongoing.

Notwithstanding the foregoing, Petitioner's primary concern in requesting a hearing, as evidenced by multiple conversations she had with the Department prior to the hearing as well as her testimony during the hearing, is how the \$34.00 increase in her RSDI and the \$25.00 increase in her rent results in a decrease in her FAP benefits. To that end, the undersigned compared all of the Department's calculations under Petitioner's current circumstances (Exhibit A, pp. 5 – 7), against Petitioner's prior circumstances (Exhibit A, pp. 6 – 10) in an effort to address Petitioner's concerns directly. When the increases in Petitioner's RSDI and rent are set off against one another [REDACTED] minus \$[REDACTED] the "real" increase in Petitioner's household income is [REDACTED]. In comparison, Petitioner's benefits have decreased \$8.00 (\$261.00 minus \$253.00). (Exhibit A, pp. 5, 9). Therefore, while the dollar amount of Petitioner's FAP benefits were decreased by

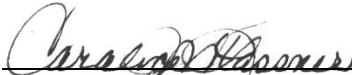
the Department, that decrease is covered by Petitioner's increased RSDI benefit, after payment of her increased rent expense.

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 decreased Petitioner's FAP benefits to \$253.00 effective February 1, 2024 ongoing.

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

