



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: March 1, 2024
MOAHR Docket No.: 24-000743
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 telephone hearing was held on February 28, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Corey Reed, Assistant Payments Supervisor.

ISSUE

Did MDHHS properly calculate Petitioner's Food Assistance Program (FAP) household budget to determine her monthly benefit amount?

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 was an ongoing recipient of FAP for a group size of two, consisting of her minor daughter and herself. Petitioner's household contains a senior (over 60 years old), disabled or disabled veteran (S/D/V) individual.
2. Effective January 1, 2024, Petitioner receives \$1,611.70 per month in Retirement, Survivors, Disability Insurance (RSDI).
3. Petitioner's daughter receives \$781.00 in monthly RSDI.
4. Petitioner submitted medical expenses for MDHHS' consideration.

5. On December 9, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that she was eligible for FAP benefits in the amount of \$158.00 monthly for a group size of two, effective January 1, 2024 (Exhibit A, pp. 6-12).
6. On January 22, 2024, MDHHS received a timely submitted request for a hearing from Petitioner disputing the monthly amount of FAP benefits she is eligible to receive (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.

In this case, Petitioner requested a hearing to dispute the determination of her monthly FAP amount. Petitioner was approved to receive \$158.00 per month in FAP benefits.

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income factors group size, countable monthly income, and relevant monthly expenses. The Notice of Hearing issued to Petitioner listed the calculations used to determine Petitioner's FAP eligibility (see Exhibit A, p. 7). During the hearing, all relevant budget factors were discussed with Petitioner.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. BEM 500 (April 2022), pp. 1-5. Petitioner reports receiving RSDI for both her minor daughter and herself. RSDI is a federal benefit administered by the Social Security Administration (SSA) that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. MDHHS counts the **gross** benefit amount of RSDI as unearned income. BEM 503 (October 2022), p. 29 (Emphasis added). MDHHS relied upon the SOLQ database report to obtain information from SSA to calculate that Petitioner receives \$2,393.00 in total monthly income from RSDI (see Exhibit A, pp. 13-15). Petitioner stated that she does not receive this full amount each month, but a reduced amount after deductions are taken, such as for her Medicare Part B premium. Since policy states that the gross

amount of RSDI (before deductions) must be considered as unearned income, MDHHS properly calculated Petitioner's RSDI amount.

Petitioner confirmed that she receives no self-employment income or earned income. Therefore, MDHHS properly budgeted \$ [REDACTED] in household income.

For groups containing S/D/V members, such as Petitioner's, MDHHS considers the following expenses: a standard deduction, childcare, court-ordered child support and arrearages paid to non-household members, medical expenses above \$35 for each S/D/V group member(s), and an uncapped excess shelter expense. BEM 554 (October 2022) p. 1.

A S/D/V group that has a verified one-time or ongoing medical expense(s) of more than \$35.00 for a S/D/V person(s) will receive the Standard Medical Deduction (SMD). The SMD is \$165.00. If the group has actual medical expenses which are more than the SMD, they have the option to verify their actual expenses instead of receiving the SMD. BEM 554, p. 9. MDHHS must estimate an S/D/V person's medical expenses for the benefit period. The expense does not have to be paid to be allowed. MDHHS allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. MDHHS allows only the non-reimbursable portion of a medical expense. The medical bill cannot be overdue. MDHHS must verify allowable medical expenses, including the amount of reimbursement, at initial application and redetermination. Groups that continue to have a medical expense(s) that allow them to receive the SMD, will not need to reverify the expense at redetermination, unless questionable. MDHHS must verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 12. Acceptable verification sources include, but are not limited to:

- Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.
- Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.
- DHS-54A, Medical Needs, completed by a licensed health care professional.
- SOLQ for Medicare premiums.
- Written statements from licensed health care professionals.
- Collateral contact with the provider. (Most commonly used to determine cost of over-the-counter medication and health-related supplies, and ongoing medical transportation).

BEM 554, p. 13. In this case, Petitioner testified that she submitted additional medical expenses for MDHHS' consideration. However, MDHHS only credited Petitioner with the SMD. MDHHS testified that they were aware that Petitioner had medical expenses that exceeded the SMD \$165.00. Therefore, MDHHS did not act in accordance with policy in only crediting Petitioner with the SMD rather than actual medical expenses.

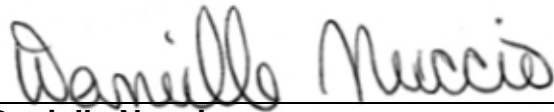
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated Petitioner's household budget to determine her eligibility to receive \$158.00 in monthly FAP benefits.

DECISION AND ORDER

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

THE DEPARTMENT 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. Recalculate the FAP budget for January 1, 2024 ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. If Petitioner is eligible for supplements, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from January 1, 2024 ongoing
3. Notify Petitioner of its decision in writing.



DN/nr

Danielle Nuccio
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

Wayne 17 County DHHS
M. Holden
N. Denson-Sogbaka
B. Cabanaw
BSC4
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
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