



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 21, 2024
MOAHR Docket No.: 24-001157
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 March 11, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Krishawn Parker, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective March 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 was an ongoing recipient of FAP benefits for a group size of four (4), which included Petitioner, daughter [REDACTED] (RR), daughter [REDACTED] (CS), and daughter [REDACTED] (CR). (Exhibit A, pp. 12 – 13, 18 – 19).
2. On January 9, 2024, the Department sent Petitioner a New Hire Client Notice (New Hire Notice) regarding new employment information for RR. (Exhibit A, pp. 9 – 11).
3. On January 13, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) reducing Petitioner's FAP benefits from \$616 to \$189.

4. On January 23, 2024, the Department sent Petitioner an NOCA closing her FAP case, effective March 1, 2024, due to Petitioner's failure to return the New Hire Notice. (Exhibit A, pp. 12 – 13).
5. On January 29, 2024, Petitioner verbally requested a hearing regarding her FAP benefits. (Exhibit A, pp. 4 – 7).
6. On January 31, 2024, Petitioner returned the New Hire Notice indicating that RR was no longer employed. (Exhibit A, p. 16).
7. On February 12, 2024, the Department reprocessed Petitioner's FAP case and sent Petitioner an NOCA reinstating Petitioner's FAP benefits, effective March 1, 2024 in the amount of \$189 monthly. (Exhibit A, pp. 18 – 19).

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 to dispute the amount of, and closure of, her FAP benefits. Petitioner was notified on January 23, 2024 that her FAP case would close effective March 1, 2024, due to failure to return a New Hire Notice. Petitioner returned the New Hire Notice on January 31, 2024 and the Department reinstated her case effective March 1, 2024; therefore, the closure of Petitioner's FAP case will not be addressed herein as that issue was resolved with no negative impact on Petitioner's benefits. Once the New Hire Notice was returned, the Department reprocessed and reinstated Petitioner's FAP benefits of \$189 per month, effective March 1, 2024. This decision is limited to the Department's determination of Petitioner's monthly FAP benefits.

On January 9, 2024, the Department became aware that Petitioner's daughter, RR, was employed and sent Petitioner a New Hire Notice regarding that employment, which was due to be completed and returned by January 19, 2024. (Exhibit A, pp. 9 – 11). In conjunction with the information the Department received regarding new income for RR, the Department also obtained wage information from Work Number, a wage information database through Equifax Verification Services, regarding Petitioner's current income. Based on the information obtained, and including the group's previously reported self-

employment income, the Department updated Petitioner's FAP income budget and reduced Petitioner's FAP assistance, from \$616 to \$189 per month. Although the Department did not provide a net income budget to show the information it considered in determining that Petitioner was eligible for \$189 in FAP monthly, the information on the February 12, 2024 NOCA was reviewed on the record with Petitioner and the Department.

When the Department becomes 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. Prospective income is income not yet received but expected and is based on the past 30 days when that income appears to accurately reflect what is expected going forward. BEM 505, pp. 1, 6. The Department must prospect an individual's income if income is received on a regular schedule but varies from check to check. BEM 505, pp. 2 – 4.

The Department testified that it obtained Petitioner's most recent employment income information from Work Number, a wage information database through Equifax Verification Services, and used Petitioner's earnings from December 12, 2023 in the gross amount of [REDACTED] and December 26, 2023 in the gross amount of [REDACTED] to determine her current monthly earned income. 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. In this case, Petitioner was paid bi-weekly. Therefore, the Department added her gross income from both checks provided and divided the total by two. The Department then multiplied that bi-weekly average by 2.15. These bi-weekly amounts were properly calculated by the Department into a standard monthly amount of [REDACTED]

The Department testified that in September 2023, Petitioner reported self-employment income for herself and RR, in the gross amounts of [REDACTED] per month and [REDACTED] per month respectively, for total proceeds of [REDACTED] per month. Total proceeds of self-employed individuals are reduced by allowable expenses to determine the countable income from self-employment. BEM 502 (October 2019), pp. 3 – 4. For FAP benefits, allowable expenses are 25% of the total proceeds, or actual expenses, if the client chooses to claim and verify the expenses, whichever is higher. BEM 502, p. 3.

Petitioner confirmed that she and RR had self-employment income, though she testified that it was currently less than previously reported. However, Petitioner offered no evidence that she had reported any changes in that income to the Department and did not take issue with the Department's calculation of her and RR's net self-employment income. The budget summary included on the February 12, 2023 NOCA, reflects that the Department included [REDACTED] in self-employment income when determining

Petitioner's FAP benefits, which is 75% of Petitioner and RR's reported total proceeds. (Exhibit A, pp. 18 – 19). The Department properly calculated Petitioner's group's self-employment income.

Earned income and self-employment income are added together to determine the group's gross earned income, which totaled [REDACTED]. The budget summary also includes unearned income in the amount of [REDACTED] which was not disputed by Petitioner, and was properly included by the Department in Petitioner's total countable income of [REDACTED] (Exhibit A, p. 19).

After countable income is calculated, the Department must determine whether Petitioner is entitled to any deductions from that income. Petitioner did not report that anyone in Petitioner's group is a senior, disabled, or a disabled veteran (SDV). FAP groups with earned income and no SDV members are entitled to the following deductions: (1) a 20% earned income deduction, (2) a standard deduction, (3) day care expense deduction, (4) child support expense deduction, and (5) an excess shelter deduction. BEM 554 (January 2024), p. 1.

First, Petitioner's group has gross earned income totaling [REDACTED] and therefore is entitled to 20% reduction of the earned income amount. BEM 550 (April 2023), p. 1. This results in a deduction of \$794. Next, all groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Petitioner's certified group size is 4 and groups of 4 receive a standard deduction of \$208. RFT 255 (October 2023). The Department properly subtracted the standard deduction of \$208. (Exhibit A, p. 19).

Petitioner did not report any child care expenses or payments being made for child support. Therefore, no additional deductions were taken from Petitioner's total income amount. Petitioner's gross income of [REDACTED] reduced by the 20% earned income deduction and the standard deduction of \$208, results in an adjusted gross income (AGI) of [REDACTED].

Next, the Department must determine any excess shelter expense deduction available to Petitioner. To calculate the excess shelter deduction, the Department must review Petitioner's housing and utility expenses, if any. It was undisputed that Petitioner's housing expense was \$2,350 per month and that Petitioner pays all heat, electric, and other utilities for the household. When a FAP group has heating and other utility expenses, separate from the mortgage payment, it is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction, which is the highest amount available to FAP groups who pay utilities. BEM 554, p. 17. The h/u standard amount is \$680.00 (RFT 255) and the Department properly used that amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 19).

¹ All cents are dropped.

Once Petitioner's housing and utility expenses have been determined, the Department adds the housing expense and h/u standard 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. Here, Petitioner's housing expense of \$2,350 plus the h/u standard of \$680 equal a total shelter expense of \$3,030.

Petitioner's total shelter expense, minus 50% of Petitioner's AGI of [REDACTED] in the amount of [REDACTED] equals an excess shelter amount of \$1,388. However, the excess shelter deduction is limited to \$672 for FAP groups without an SDV member. BEM 554, p. 1; RFT 255. Therefore, the Department properly subtracted an excess shelter deduction limited to \$672 from Petitioner's AGI of [REDACTED] which determines Petitioner's net monthly income, for purposes of FAP, to be [REDACTED]. Because this is the net monthly income amount reached by the Department, the Department's calculation was in accordance with policy. (Exhibit A, p. 19).

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 4 person FAP group size and net income of [REDACTED] Petitioner's monthly FAP benefit is \$189. RFT 260 (October 2023), p. 36. This amount is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating Petitioner's monthly FAP benefit.

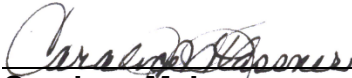
It is noted that while being asked to confirm the income information relied on by the Department, Petitioner testified, in broad terms, that she had experienced changes in both her earned and self-employment income and that she reported such changes to the Department. However, the Department had no record of any changes being reported and Petitioner did not offer specific changes, or dates on which they were reported. Additionally, the case comments provided by the Department do not include any indication of change information having been received by the Department. (Exhibit A, p. 25). Based on her reported income, the Department properly determined Petitioner's FAP allotment.

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 benefit amount of \$189 per month.

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

Yvonne Hill

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MDHHS-Oakland-DistrictII-Hearings@michigan.gov

Interested Parties

BSC4

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MOAHR

Via First Class Mail:

Petitioner

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