



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
DIRECTOR



Date Mailed: March 22, 2024
MOAHR Docket No.: 24-001209
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 13, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Danielle Moton, Assistance Payments Worker. Translation services were provided by Marwa Amer, an independent English-Arabic translator obtained by the Department.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective December 1, 2023?

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 certified group of four (4), which includes Petitioner, his wife (Spouse), and two other household members. (Exhibit A, pp. 8 – 9, 12 – 13).
2. Petitioner was due for, and completed, a semi-annual review application. Prior to the semi-annual review, Petitioner was receiving \$593 per month in FAP benefits.
3. On December 2, 2023, the Department sent Petitioner a Verification Checklist (VCL) requesting income verification by December 12, 2023. The VCL specifically requested paystubs for Spouse from June 2, 2023, June 20, 2023, and the month of November 2023 and for Petitioner from June 9, 2023 and November 2023. (Exhibit A, pp. 19 – 21).

4. On January 16, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) closing Petitioner's FAP case, effective December 1, 2023, due to Petitioner's failure to provide requested verifications. (Exhibit A, pp. 8 – 9).
5. On January 25, 2024, the Department received Petitioner's request for hearing disputing the Department's decision closing his FAP case.
6. On February 2, 2024, Petitioner submitted the requested verifications to the Department. (Exhibit A, p. 1).
7. On February 14, 2024, the Department processed Petitioner's verifications and sent Petitioner an NOCA approving Petitioner's FAP benefits, effective December 1, 2023, in the amount of \$243 per month. (Exhibit A, pp. 12 – 13).

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 closure of his FAP case. (Exhibit A, pp. 3 – 5). The Department closed Petitioner's FAP case on January 16, 2024, effective December 1, 2023, due to his failure to return income verification. (Exhibit A, pp. 8 – 9). Petitioner submitted the requested income verification on February 2, 2024. (Exhibit A, p. 1). The Department subsequently processed Petitioner's verifications and sent an NOCA to Petitioner on February 14, 2023, approving Petitioner for FAP benefits in the amount of \$243, effective December 1, 2023. (Exhibit A, pp. 1, 12 – 13).

At the hearing, Petitioner confirmed his FAP case was no longer closed but identified the amount of his monthly FAP allotment as an issue. The Department advised it was prepared to discuss the budget it used to determine Petitioner's FAP benefit. Therefore, this decision is limited to a review of the budget set forth in the February 14, 2024 NOCA. (Exhibit A, pp. 12 – 13).

The Department must periodically redetermine an individual's eligibility for active programs, including FAP. BAM 210 (October 2023), p. 1. In Petitioner's case, that is accomplished through a semi-annual review and Petitioner was due for review of his FAP eligibility for the benefit period beginning December 1, 2023. Petitioner completed

his semi-annual review application and the Department sent Petitioner a VCL on December 2, 2023, requesting paystubs for Spouse from June 2, 2023, June 20, 2023, and the month of November 2023 and for Petitioner from June 9, 2023 and November 2023. (Exhibit A, pp. 19 – 21). For the FAP program, verifications are due within ten (10) days of the VCL. BAM 130 (October 2023), p. 7. When a client fails to return verifications within 10 days but does comply within 60 days of the application date, the Department re-registers the application. BAM 130, p. 8; see also BAM 115 (January 2023), p. 24.

Petitioner returned the requested verifications to the Department on February 2, 2024 and the Department re-processed Petitioner's semi-annual review application. (Exhibit 1, p. 1). The Department begins the redetermination process by reviewing Petitioner's income sources and amounts. BAM 210, pp. 18 – 19. 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 (October 2023), 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 Petitioner reported no changes in income on the semi-annual review application and did not provide updated paystubs for his employment. Pursuant to BAM 210, when Petitioner indicated his gross earned income had not changed by more than \$125, current verification of his past 30 days of income was not required, and the Department properly utilized Petitioner's previously provided June 2023 paystubs. BAM 210 (January 2024), p. 13. To calculate Petitioner's budget, the Department testified that it relied on Petitioner's verifications from June 2023 and Spouse's current verifications. Specifically, the Department used Petitioner's bi-weekly employment income from June 9, 2023, in the gross amount of [REDACTED] and June 23, 2023, in the gross amount of [REDACTED] and Spouse's bi-weekly employment income from November 3, 2023, in the gross amount of [REDACTED] 1,162.42, and November 17, 2023, in the gross amount of [REDACTED] to determine the group's current monthly earned income. Petitioner testified that Spouse does not work year-round; however, he did not report that information to the Department.

For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. Bi-weekly pay amounts are added together and divided by the number of pay periods considered to determine an average bi-weekly amount. Then, the average of the bi-weekly amount is multiplied by 2.15. BEM 505, pp. 8 – 9. Here, the Department added Petitioner's gross income amounts and divided the total by two. The Department then multiplied that bi-weekly average by 2.15. This equals a standard monthly amount of [REDACTED] for Petitioner. The Department then repeated that process for Spouse's checks, which equals a standard monthly

amount of [REDACTED]. These bi-weekly amounts were properly calculated by the Department into a total standard monthly amount of [REDACTED] (Exhibit A, p. 13).

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 (over age 60 for FAP purposes), 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 (April 2023), 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 \$660. 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. 13).

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. Petitioner confirmed that his housing expense is limited to his property taxes and homeowners insurance. Property taxes and homeowners insurance are allowable housing expenses. BEM 554, p. 15. Petitioner testified that his property taxes are \$2,500 per year and his homeowners insurance is \$1,500 per year. However, the Department testified that Petitioner previously reported his property taxes to be \$2,000 and his homeowners insurance to be \$1,100 and did not report any changes to his housing expenses on his semi-annual review application. All ongoing expenses are converted into a monthly amount and expenses paid annually are averaged over twelve (12) months. BEM 554, pp. 3 – 4. Based on the information the Department had at the time of the assessment that Petitioner paid annually \$2,000 in property taxes and \$1,100 in homeowners insurance, the Department used the amount of \$258.34 per month for Petitioner's housing expense, which is 1/12th of his total property tax and homeowners insurance. (Exhibit A, p. 13). The Department properly determined Petitioner's housing costs. Petitioner was advised that he could report changes in his shelter expenses to the Department that may potentially affect future FAP benefits.

Petitioner also confirmed that he 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. 13).

Once Petitioner's housing and utility expenses were determined, the Department added the housing expense and h/u standard together for a total shelter amount of \$938. The Department then subtracted 50% of Petitioner's [REDACTED] AGI, [REDACTED] from the total shelter amount to determine Petitioner's excess shelter deduction. Because Petitioner's excess shelter deduction is a negative number, it is considered \$0 and results in no excess shelter deduction.

Because Petitioner is not entitled to an excess shelter deduction, his net income is the same as the AGI, or [REDACTED]. This is the net monthly income amount reached by the Department; therefore, the Department's calculation was in accordance with policy. (Exhibit A, p. 13).


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 \$243. RFT 260 (October 2023), p. 34. This amount is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating Petitioner's monthly FAP benefit.

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 approved Petitioner for FAP benefits in the amount of \$243 per month for his group of four (4).

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
Tara Roland 82-17
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Interested Parties

M Holden
B Cabanaw
N Denson-Sogbaka
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]