



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

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 22, 2024
MOAHR Docket No.: 24-001339
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 March 14, 2024, via a telephone conference. Petitioner appeared at the hearing. The Department of Health and Human Services (Department) was represented by Diadra Livernois, Family Independence Manager.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) 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 benefits at a benefit amount of \$291 monthly.
2. Petitioner was the sole member of her FAP household group.
3. On October 5, 2023, Petitioner completed a redetermination.
4. Petitioner had unearned income in the form of Supplemental Security Income (SSI) benefits in the gross monthly amount of [REDACTED] (Exhibit A, p. 10).
5. Petitioner informed the Department in January 2024 that she was experiencing homelessness.

6. On January 26, 2024, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for FAP benefits in the amount of \$153 per month effective March 1, 2024, ongoing (Exhibit A, p. 13).
7. On February 5, 2024, the Department received Petitioner's request for hearing disputing the Department's calculation of her FAP benefit amount.

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, the Department testified that, based on Petitioner's unearned income and eligible deductions, Petitioner was eligible for \$153 in monthly FAP benefits and presented a FAP budget showing the information that it used to calculate Petitioner's \$153 in monthly FAP benefits.

The budget showed that Petitioner had monthly unearned income of [REDACTED] which the Department explained was the sum of Petitioner's monthly [REDACTED] SSI benefits plus a monthly [REDACTED] State SSI Payment (SSP). In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with state funds, known as SSP. BEM 660 (October 2021), p. 1. Petitioner receives a quarterly SSP, in the amount of [REDACTED] RFT 248, p. 1. The SSP benefit amount is considered in calculating FAP unearned income for the corresponding month it is intended to cover. BEM 503 (January 2023), pp. 36-37. Thus, the Department properly budgeted [REDACTED] of SSP in calculating Petitioner's monthly gross unearned income.

The Single Online Query (SOLQ) report the Department presented showed gross SSI income of [REDACTED] monthly. Exhibit A, p. 10. Additionally, the SOLQ showed an overpayment amount was being taken from Petitioner's [REDACTED] benefit in the amount of [REDACTED] monthly. *Id.* Petitioner did not dispute the accuracy of the SOLQ. The Department included the withheld amount in its calculation of Petitioner's monthly gross unearned income. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income and should be excluded as income. BEM 500, pp. 6-7. Therefore, the Department erred when it included the

██████ amount withheld from Petitioner's SSI income when calculating Petitioner's monthly gross unearned income.

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 improperly calculated Petitioner's monthly FAP allotment.

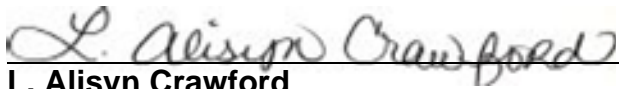
DECISION AND ORDER

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. Redetermine Petitioner's eligibility for FAP, excluding the overpayment amount taken from her unearned income, when calculating her budget for March 2024, ongoing;
2. If Petitioner is eligible for increased FAP benefits based on the recalculated FAP budget, issue supplements for any FAP benefits Petitioner was eligible to receive but did not from March 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

LC/ml


L. Alisyn Crawford
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
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
MDHHS-Wayne-55-Hearings@michigan.gov

Interested Parties

M Holden
B Cabanaw
N Denson-Sogbaka

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]