



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]  
MI [REDACTED]

Date Mailed: March 28, 2024  
MOAHR Docket No.: 24-001401  
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 20, 2024, via telephone conference. Petitioner was present at the hearing. The Department of Health and Human Services (Department) was represented by Anjeleise Mckinley, Eligibility Specialist.

### **ISSUE**

Did the Department properly calculate Petitioner's monthly Food Assistance Program (FAP) allotment?

### **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.
2. Petitioner has a FAP household group size of two, which includes her [REDACTED] year-old son.
3. On February 1, 2024, Administrative Law Judge Linda Jordan issued a decision ordering the Department to reinstate Petitioner's FAP case and redetermine her eligibility for FAP benefits, beginning January 1, 2024 ongoing. (Exhibit A, pp. 10-13).
4. During the Department's eligibility review period of December 15, 2023 through January 13, 2024, Petitioner worked at the following places: (i) [REDACTED]

██████████ (Employer 1); (ii) ██████████ (Employer 2); and (iii) as an Adult Home Help Provider (Employer 3).

5. On February 6, 2024, the Department sent Petitioner a Notice of Case Action informing her that she was eligible for FAP benefits in the amount of \$23 for January 2024, and \$26 monthly effective February 2024 ongoing. (Exhibit A, pp. 45-49).
6. On February 12, 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 her income and eligible deductions, Petitioner was eligible for \$23 in monthly FAP benefits for January 2024, and \$26 in monthly FAP benefits for February 2024 ongoing. Petitioner disputes the Department's calculation of her FAP benefit amount.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. 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. BEM 505 (October 2023), p. 1. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-5. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. *Id.* The Department multiplies weekly income by 4.3, multiplies biweekly income by 2.15, and adds amounts received twice a month together. *Id.*

Petitioner is employed.<sup>1</sup> The Department budgeted [REDACTED] in earned income based on Petitioner's employment with Employer 1, 2, and 3. The Department testified that the review period for eligibility was December 15, 2023 through January 13, 2024. The Department testified that it used the following paycheck amounts to determine Petitioner's eligibility: Employer 1 check dates December 29, 2023 and January 12, 2024 (in the amount of [REDACTED] and [REDACTED] respectively); Employer 2 check date January 11, 2024 (in the amount of [REDACTED] and Employer 3 check date January 11, 2024 (in the amount of [REDACTED] Exhibit A, pp. 32, 35, 42. When Petitioner's average biweekly pay from Employer 1 is multiplied by 2.15, Petitioner's standard monthly income from Employer 1 is [REDACTED]. When this is added to Petitioner's monthly income from Employer 2 and Employer 3, the total is [REDACTED] consistent with the Department's calculation of gross income. The Department properly considered Petitioner's earned income.

After consideration of income, the Department considers all appropriate deductions and expenses. Although Petitioner testified that her son was disabled, she acknowledged that he did not receive Social Security benefits due to a disability. Therefore, under Department policy, Petitioner's son is not considered disabled. See BEM 550 (February 2024), pp. 1-2. Therefore, the group is eligible for the following deductions to income:

- Earned income deduction.
- Standard deduction based on group size.
- Dependent care expense.
- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 550 (April 2023), pp. 1; BEM 554 (April 2023), p. 1; BEM 556 (January 2023), pp. - 6.

Petitioner was eligible for the 20% earned income deduction from her [REDACTED] gross income totaling [REDACTED]. The Department properly budgeted the standard deduction of \$198.00 based on Petitioner's two-person FAP group. RFT 255 (October 2023), p. 1; BEM 556, p. 4. No evidence was presented that Petitioner has dependent care or child support expenses. Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each of these deductions from the gross income for a total AGI of [REDACTED].

Once the AGI is calculated, the Department must then calculate the excess shelter deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The excess shelter deduction is

---

<sup>1</sup> At the hearing, Petitioner testified that she no longer works for Employer 1 as of February 2, 2024 but acknowledged that she had not reported her employment change to the Department. Because the Department was not aware of any change, it could not process the change to affect Petitioner's FAP case. Petitioner was instructed by the Department representative on how to report a change and was informed that such change could affect her future FAP benefit amount.

calculated by adding Petitioner's housing costs to any of the applicable standard deductions based on Petitioner's utility expenses and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Petitioner is responsible for rent of \$1,050.00 per month. The budget also showed that the Department applied the \$680.00 heat and utility (h/u) standard, which covers all heat and utility costs and is the maximum total utility and most beneficial standard available to a client, to Petitioner's FAP budget. See BEM 554, p. 16. After each item is considered, Petitioner's total housing cost is added together (\$1,730.00) and reduced by 50% of Petitioner's AGI [REDACTED] results in an excess shelter deduction of \$588.00. *Id.*

Next, Petitioner's excess shelter cost is deducted from her AGI to equal her net income of [REDACTED] *Id.* Finally, Petitioner's net income and FAP household group size of two is compared against the Food Assistance Issuance Tables found in RFT 260 that shows that a 2-person FAP group with [REDACTED] in net income is entitled to a monthly FAP benefit rate of \$26.00. BEM 556, p. 6; RFT 260 (October 2023), p. 24. Therefore, the Department properly calculated Petitioner's FAP benefit amount for February 2024 ongoing. However, the Department was unable to provide an explanation regarding the FAP benefit amount discrepancies between January (\$23) and February (\$26).

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 FAP benefit amount for January 2024 but did act in accordance with Department policy when it calculated Petitioner's FAP benefit amount for February 2024 ongoing.

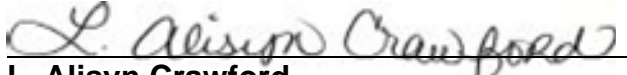
### **DECISION AND ORDER**

Accordingly, the Department's decision regarding FAP benefits for January 2024 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 benefits for January 2024 only;
2. Issue supplemental payments for any FAP benefits that Petitioner was eligible to receive, but did not, for January 2024 only; 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**

Denise Key-McCoggle  
Wayne-Greydale-DHHS  
27260 Plymouth Rd  
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-Hearings@michigan.gov**

**Interested Parties**

M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
MI [REDACTED]