



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: April 5, 2024
MOAHR Docket No.: 24-002030
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 28, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Markita Mobley, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED] 2023 Petitioner applied for FAP benefits for her household of one (1), and reported her sole source of income to be unemployment (UI). (Exhibit A, pp. 5 – 22).
2. On December 2, 2023, the Department completed its processing of Petitioner's application, including calculation of her budget, and sent her a Notice of Case Action (NOCA) approving her for benefits in the amount of \$23 per month, prorated from the date of her application and ongoing. (Exhibit A, pp. 23 – 25).
3. On February 7, 2024, the Department received Petitioner's request for hearing in which Petitioner disputed the amount of her FAP benefit. (Exhibit A, p. 3).

4. On February 23, 2024, the Department issued a NOCA to Petitioner, increasing her FAP benefits to \$291 per month, effective March 1, 2024, due to a change in Petitioner's UI. (Exhibit A, pp. 26 – 27).

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.

The Department received a request for hearing from Petitioner on February 7, 2024 in which Petitioner disputed the amount of her FAP benefits. (Exhibit A, p. 3). The Department approved Petitioner for FAP benefits in the amount of \$23 per month on December 2, 2023.

At the hearing, the Department testified that Petitioner's FAP benefit amount was increased to \$291 per month, effective March 1, 2024, following Petitioner's report that her UI had ceased, and that a supplement was issued to Petitioner for the month of February 2024. (Exhibit A, pp. 26 – 27). Petitioner confirmed her receipt of the supplement and increased benefit amount and clarified that her dispute was limited to her monthly FAP benefit amount between the date of her application, [REDACTED] 2023, and [REDACTED] 2024.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the Petitioner must be included. BEM 500 (April 2022), pp. 1 – 5. The Department must count the gross amount of unemployment benefits as unearned income. BEM 503 (January 2023), p. 37. Gross income is the amount of income before any deductions such as income taxes and may be more than the amount an individual actually receives. BEM 500, p. 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505 (October 2023), p. 1.

In this case, at the time of Petitioner's FAP application, her sole source of income was UI in the gross amount of [REDACTED] per week, payable to her on a bi-weekly basis in the amount of [REDACTED] (Exhibit A, pp. 17 – 22). For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount and bi-weekly income is multiplied by 2.15. BEM 505, pp. 8 – 9. Because UI is

disbursed on a bi-weekly basis, the bi-weekly payments [REDACTED] multiplied by 2.15. [REDACTED] times 2.15 equals a standardized monthly amount of [REDACTED] 1,556.60. In this case, the Department's calculation reflects [REDACTED] which is less than the standardized monthly amount determined here. As this error is in Petitioner's favor, it is deemed to have been properly calculated by the Department and will be used for the remainder of the analysis that follows.

After Petitioner's countable income has been calculated, the Department must determine whether Petitioner is entitled to any deductions from that income. Petitioner testified that she is not a senior, not disabled, and not a disabled veteran (SDV). FAP groups with only unearned income and no SDV members are entitled to the following deductions: (1) a standard deduction, (2) day care expense deduction, (3) child support expense deduction, and (4) an excess shelter deduction up to the maximum allowed in RFT 255. BEM 554 (April 2023), p. 1.

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550 (April 2023), p. 1. Petitioner's certified group size is one (1) and groups of one to three receive a standard deduction of \$198. RFT 255 (October 2023). The Department properly subtracted the standard deduction of \$198. (Exhibit A, p. 23). 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] the amount calculated by the Department, reduced by the standard deduction of \$198, results in an adjusted gross income (AGI) of [REDACTED] (Exhibit A, p. 23).

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 testified that her housing expense is based on her property tax expense only and she did not dispute the Department's calculation of \$166.67 per month for that expense. Petitioner also testified that she 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 utility standard available to FAP groups who pay utilities. BEM 554, p. 16. The h/u standard amount is \$680 (RFT 255) and the Department properly used that amount when calculating Petitioner's excess shelter expense. (Exhibit A, p. 25).

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. Here, Petitioner's housing expense of \$166.67 plus the h/u standard of \$680 equal a total shelter expense of \$847. The Department then subtracts 50% of Petitioner's AGI from the total shelter amount to determine the amount of Petitioner's excess shelter deduction. Petitioner's total shelter expense, minus 50% of Petitioner's AGI of [REDACTED] in the amount of [REDACTED] equals an excess shelter amount of \$217. The Department properly subtracted an excess shelter deduction of \$217 from Petitioner's AGI of

██████ which determines Petitioner's net monthly income, for purposes of FAP, to be ██████. Because this is the net monthly income amount reached by the Department, the Department's calculation was in accordance with policy. (Exhibit A, p. 23).

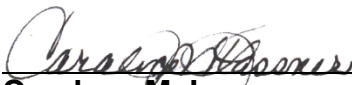
Once the net monthly income has been determined under the FAP program, the Department determines what benefit amount Petitioner is entitled to, based on the group size, according to the Food Assistance Issuance Table of RFT 260. Based on Petitioner's one (1) person FAP group size and net income of ██████ Petitioner's monthly FAP benefit is \$23. RFT 260 (October 2023), p. 15. This amount is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in determining Petitioner's FAP benefits between November 17, 2023 and January 31, 2024.

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 calculated Petitioner's monthly FAP benefit from the date of her FAP application through January 31, 2024.

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
Caryn Jackson
Wayne-Hamtramck-DHHS
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