



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: May 7, 2024  
MOAHR Docket No.: 24-002574  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 May 2, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Marcella Towns, Assistance Payments Worker.

### **ISSUE**

Did the Department properly calculate the amount of Petitioner's Food Assistance Program (FAP) benefits?

Did the Department properly process Petitioner's cash assistance and Medical Assistance (MA) 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. Petitioner was an ongoing recipient of FAP and MA benefits.
2. Petitioner received \$221 in FAP benefits for the months of January 2024 and February 2024.
3. On March 5, 2024, a prior hearing was held under MOAHR Docket No. 24-001092 with respect to the amount of Petitioner's FAP benefits, among other programs. Petitioner disputed the decrease in her FAP benefits to \$221, effective January 2024. A Hearing Decision was issued on March 7, 2024, by Administrative Law Judge (ALJ) Danielle Harkness, finding that the Department failed to establish that

it properly calculated the amount of Petitioner's FAP benefits. The Department was ordered to redetermine Petitioner's eligibility for FAP benefits beginning January 2024. (See Hearing Decision for MOAHR Docket No. 24-001092)

4. In compliance with the previous Hearing Decision, the Department redetermined Petitioner's FAP benefit eligibility and concluded that effective March 1, 2024, ongoing, Petitioner was eligible for FAP benefits of \$281. The Department issued a \$60 FAP supplement to Petitioner for the March 1, 2024, through March 30, 2024, benefit period. The Department determined that Petitioner was not entitled to a \$60 FAP supplement for the months of January 2024 and February 2024 and that she continued to be eligible for \$221 in monthly FAP benefits.
5. On or around March 11, 2024, the Department sent Petitioner a Notice of Case Action, informing her that effective March 1, 2024, her FAP benefits were being increased to \$281.
6. On March 14, 2024, Petitioner requested a hearing disputing the Department's action with respect to her FAP, MA and cash assistance (Family Independence Program (FIP) and State Disability Assistance (SDA) benefits. With respect to the FAP, Petitioner asserted that she disputed the amount of her benefits and maintained that in connection with the prior hearing, the Department was required to replace her FAP benefits beginning January 2024. (Exhibit A, pp. 4-5)
7. Petitioner's March 14, 2024, hearing request was assigned MOAHR Docket No. 24-002574 and is the subject of the current proceeding.
  - a. During the hearing, Petitioner confirmed that both her MA and cash assistance disputes have been resolved. Petitioner confirmed that her benefits have been reinstated and she was approved for ongoing cash assistance and MA benefits. Petitioner indicated that she was satisfied with the Department's actions with respect to the MA and cash programs. Therefore, Petitioner's request for hearing with respect to the MA and cash assistance (FIP/SDA) programs will be DISMISSED.

### **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, it was initially unclear what negative action was taken by the Department that Petitioner sought to dispute, as at the commencement of the hearing, Petitioner asserted that the issue has been resolved and confirmed that her FAP benefits have been increased to \$281. However, after some discussion, it was established that Petitioner disputed the Department's failure to approve her for FAP benefits of \$281 beginning January 2024, rather than March 2024. Petitioner argued that after the prior hearing, she was to receive additional FAP supplements of \$60 for the months of January 2024 and February 2024. Petitioner asserted that she only received a supplement for March 2024, bringing her FAP allotment to \$281. There was no dispute regarding Petitioner's FAP benefits for March 1, 2024, ongoing, or the \$281 approved amount.

At the hearing, the Department explained that in accordance with the previous Hearing Decision issued by ALJ Harkness, Petitioner's FAP eligibility was redetermined and it was concluded that Petitioner was eligible for increased benefits beginning March 1, 2024, not January 1, 2024. The Department reviewed both the eligibility summary and the FAP benefit issuance record to confirm the amount of FAP benefits issued to Petitioner and the dates of issuance. It was established that Petitioner received \$221 in FAP benefits for January 2024 and February 2024 with the increase to \$281 taking effect on March 1, 2024.

The Department presented a FAP EDG Net Income Results Budget for the January 2024 benefit period which was thoroughly reviewed to determine if the Department properly calculated Petitioner's FAP benefits. Although the Department initially testified that Petitioner was eligible for and received \$221, the budget provided for review reflected a net benefit amount of \$281. (Exhibit B)

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. The Department considers the gross amount of money earned from Retirement Survivors Disability Insurance (RSDI) or Social Security in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2023), pp. 29-32. Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. BEM 503, pp.6-10. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505 (October 2023), pp. 3-5.

The Department concluded that in January 2024 and February 2024 Petitioner's household had unearned income of [REDACTED] which the Department representative testified consisted of RSDI and child support benefits. Specifically, the Department considered RSDI for Petitioner's daughter of [REDACTED] and child support paid to Petitioner on her daughter's behalf in the amount of [REDACTED] monthly. Petitioner did not dispute the amount of child support. However, Petitioner argued that neither she nor her daughter receive any RSDI and that their cases have been suspended since December 2023. Petitioner asserted that she had documentation from the Social Security Administration (SSA) verifying that both her and her daughter's RSDI benefits have been suspended. Petitioner was given the opportunity to send in the documentation in support of her testimony. The documents were marked as Exhibit 1. However, Petitioner failed to submit any documentary evidence showing that both RSDI cases have been suspended and thus, Exhibit 1 is stricken from the record.

During the hearing, the Department retrieved information from the State Online Query (SOLQ), for Petitioner and her daughter. It was established that while Petitioner was previously receiving RSDI, her benefits were suspended effective December 1, 2023. However, a review of the SOLQ for Petitioner's daughter showed that her benefits were not suspended, and that Petitioner's daughter continued to receive RSDI of [REDACTED] for the months of January 2024 and February 2024. The Department testified that Petitioner's daughter's SOLQ showed a payment status code of C-01, current pay. Based on the evidence presented and the information available to the Department at the time the budget was completed, the Department properly calculated Petitioner's unearned income of [REDACTED]

The deductions to income on the net income budget were also reviewed. Petitioner did not raise any dispute regarding the deductions to income applied by the Department. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (April 2023), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (January 2024), p. 1; BEM 556 (January 2023), p. 1-8.

Petitioner did not have any earned income and there was no evidence presented that Petitioner had any out-of-pocket dependent care, child support, or medical expenses. Therefore, the budget properly did not include any deduction for earned income, dependent care, child support, or medical expenses. The Department applied a homeless shelter deduction of \$180. See BEM 554. The Department also properly applied a standard deduction of \$198 which was based on Petitioner's confirmed group

size of two. RFT 255 (October 2023), p. 1. There was no dispute raised by Petitioner regarding the calculation of her excess shelter deduction. BEM 554, pp. 13-17.

Upon further review, the Department properly determined Petitioner's net income and took into consideration the appropriate deductions to income. The Department asserted that Petitioner had net income of [REDACTED]. However, according to the budget, based on net income of [REDACTED] Petitioner's two person FAP group was eligible for \$281 in monthly FAP benefits and not \$221, as the Department initially testified Petitioner was eligible for and was issued. RFT 260 (October 2023), p. 10.

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 because the Department's budget showed that Petitioner was eligible for \$281 in monthly FAP benefits for January 2024 and February 2024, the Department did not act in accordance with Department policy when it issued \$221 in FAP benefits to Petitioner for January 2024 and February 2024 .


### **DECISION AND ORDER**

Accordingly, the hearing request with respect to MA and cash assistance (FIP/SDA) is **DISMISSED** and the Department's FAP 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. Issue a \$60 FAP supplement to Petitioner for the months of January 2024 and February 2024.

ZB/ml

  
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**Zainab A. Baydoun**  
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:**

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**Interested Parties**  
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**Via First Class Mail:**

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