



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

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Date Mailed: April 17, 2024  
MOAHR Docket No.: 24-002959  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

### **HEARING DECISION**

On March 12, 2024, Petitioner, ██████████, requested a hearing to dispute her Food Assistance Program (FAP) benefit amount. As a result, a hearing was scheduled to be held on April 16, 2024, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. ██████████ Petitioner's husband, appeared on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

A 22-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine Petitioner's FAP benefit amount beginning January 31, 2024?

### **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 ██████████ 2024, Petitioner applied for FAP benefits.
2. Petitioner submitted a 2023 Schedule C to the Department verifying her husband's self-employment income.
3. In 2023, Petitioner's husband received ██████████ in gross self-employment income.
4. Petitioner's husband also receives Retirement, Survivors, Disability Insurance (RSDI) income of ██████████ per month.
5. Petitioner reported that she pays a mortgage payment of ██████████ per month and property taxes of ██████████ per month.

6. The Department determined that the maximum FAP benefit Petitioner is eligible for is \$0.00 on January 31, 2024, and \$23.00 per month from February 1, 2024, through December 31, 2024.
7. On March 12, 2024, Petitioner requested a hearing to dispute 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 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 determined that the maximum FAP benefit Petitioner is eligible for is \$23.00 per month from February 1, 2024, through December 31, 2024. Petitioner refuted the Department's calculation of her income. Petitioner's witness indicated that his self-employment income should be lower because not much is left over after paying the bills. Further, Petitioner's witness indicated that he only receives [REDACTED] per month in RSDI per month.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502 (October 1, 2019), p. 3. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client choose to claim and verify the expenses. *Id.*

As to Petitioner's husband's self-employment income, the department representative stated that the 2023 Schedule C that Petitioner submitted was used to verify Petitioner's husband's self-employment income. The department utilized the gross self-employment income of [REDACTED] as reflected in the 2023 Schedule C to determine that Petitioner's self-employment income was [REDACTED] per month ( $[REDACTED]/12 = [REDACTED]$ ). Petitioner's allowable expenses were \$196.00 per month ( $.25 \times \$9,425.00 = \$2,356.00/12 = \$196.00$ ). Petitioner's total self-employment income is [REDACTED] - \$196.00).

Petitioner's husband receives unearned income of [REDACTED] per month in RSDI. No further evidence of unearned income was shown by the Department.

Here, the department presented insufficient evidence to show that Petitioner's unearned income of [REDACTED] is correct. Accordingly, the Department failed to meet its burden of going forward and establishing that it properly determined Petitioner's FAP benefit amount beginning January 31, 2024.

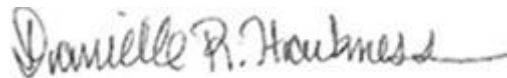
**DECISION AND ORDER**

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 failed to act in accordance with its policies and the applicable law when it determined Petitioner's FAP benefit amount.

IT IS ORDERED that 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 benefits beginning January 31, 2024.



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**Danielle R. Harkness**  
Administrative Law Judge

DH/pt

**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  
Wayne-Greenfield/Joy-DHHS  
8655 Greenfield  
Detroit, MI 48228

**MDHHS-Wayne-17-hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
MOAHR

**Via-First Class Mail:**

**Petitioner**

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