



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



Date Mailed: June 4, 2024
MOAHR Docket No.: 24-004536
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 May 29, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits effective April 1, 2024 ongoing?

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 is an ongoing recipient of FAP for a certified group of one. (Exhibit A, p. 8).
2. Petitioner has Retirement, Survivors, and Disability Insurance (RSDI) income of \$1,264 per month and pension income of \$959.04 per month.
3. On March 28, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) approving Petitioner for FAP benefits of \$23 per month effective April 2024. (Exhibit A, pp. 8 – 9).

4. On April 15, 2024, the Department received a request for hearing from Petitioner, disputing the amount of his FAP benefits. (Exhibit A, pp. 3 – 5).

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.

Petitioner requested a hearing to dispute the amount of his monthly FAP benefit. Petitioner was approved for \$23 per month in FAP benefits for April 2024 ongoing.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, the Department must consider all countable earned and unearned income available to the Petitioner. 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. For RSDI and pension income, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2023), pp. 29 – 30, 35.

In this case, the Department introduced evidence that Petitioner has gross RSDI income of \$1,264 per month and gross pension income of \$[REDACTED] per month, for total monthly unearned income of \$[REDACTED] (Exhibit A, p. 1). The Department budgeted the total monthly unearned income \$[REDACTED] when determining Petitioner's FAP budget. (Exhibit A, pp. 16 – 17). At the hearing, Petitioner confirmed the amounts and sources of his gross income.

After countable income is calculated, the Department must determine which deductions are available to Petitioner. Specific and limited deductions are permitted, depending on the source of countable income and the group's composition. Because Petitioner is over 60 years of age, he is considered a senior/disabled/veteran (SDV) household. BEM 550 (February 2024), p. 1. Households with SDV members with unearned income may be eligible for the following deductions only:

- Standard deduction based on group size.
- Dependent care expense.
- Medical expense deduction for medical expenses of the SDV member in excess of \$35.

- Court ordered child support and arrearages paid to non-household members.
- Excess shelter deduction.

BEM 554 (February 2024) p. 1; BEM 556 (March 2024) pp. 3 – 6.

Neither the Department nor Petitioner assert Petitioner has any dependent care expenses or court ordered child support expenses and therefore, no deduction for either of those expenses are reflected on the budget.

All groups are entitled to a standard deduction in an amount determined by the group size. BEM 550, p. 1. Groups of 1 to 3 receive a standard deduction of \$198 RFT 255 (October 2023). The Department deducted \$198 from Petitioner's countable income, as shown on the budget as well as the NOCA. (Exhibit A, pp. 9, 16).

SDV groups who verify one-time or ongoing medical expenses in excess of \$35 for the SDV member will receive a standard medical deduction of \$165 unless the group has actual medical expenses in a higher amount and verify those actual expenses. BEM 554, p. 9. The Department utilized the standard medical expense deduction of \$165 based on Petitioner's payment of Part B Medicare insurance premiums. (Exhibit A, pp. 9, 16, 19). Petitioner confirmed that he pays this expense.

Before determining the excess shelter deduction, the Department must first calculate an adjusted gross income (AGI) for Petitioner by subtracting available deductions from total countable income. The Department properly determined Petitioner's AGI to be \$1,860, based on \$ [REDACTED] in countable income reduced by the \$198 standard deduction and the \$165 standard medical expense deduction. (Exhibit A, p. 16).

Next, the Department determines any excess shelter deduction. BEM 554, p. 13. To calculate this amount, the Department reviews Petitioner's housing and utility expenses, if any. BEM 556, pp. 5 – 6. Petitioner confirmed that he has a housing expense of \$650 per month and heat and electric expenses. A FAP group that has heating and other utility expenses, separate from the rental payment, is entitled to a heat and utility (h/u) standard amount to be included in the calculation of the excess shelter deduction. BEM 554, p. 17. The h/u standard is the most favorable utility standard available to a client, and FAP groups that receive the h/u standard do not receive any other individual utility standards. BEM 554, p. 16. The h/u standard amount is \$680. RFT 255 (October 2023). The Department used Petitioner's housing expense of \$650 and the h/u standard of \$680 when calculating Petitioner's total shelter expense. (Exhibit A, p. 18).

Once Petitioner's housing and the applicable utility standard have been determined, the Department adds those amounts together for a total shelter amount. The Department then subtracts 50% of Petitioner's AGI from the total shelter amount. BEM 556, p. 5. The result of that calculation determines Petitioner's excess shelter deduction. BEM 556 p. 6. In FAP groups with an SDV member, the excess shelter amount is not limited. BEM 556, p. 6.

In Petitioner's case, the Department properly added together Petitioner's monthly housing expense of \$650 and the \$680 h/u standard to arrive at Petitioner's total shelter amount of \$1,330. The Department properly subtracted 50% of Petitioner's AGI, in the amount of \$930, from the total shelter amount to determine Petitioner's excess shelter deduction to be \$400. (Exhibit A, p. 18). The Department then properly subtracted the excess shelter deduction of \$400 from Petitioner's AGI of \$1,860, which determined Petitioner's net monthly income for purposes of FAP to be \$ [REDACTED] (Exhibit A, p. 16). The Department's calculations were made consistent with policy.


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 found in RFT 260. Based on Petitioner's one person FAP group size and net income of \$1,460, Petitioner's monthly benefit, beginning April 2024, is \$23. RFT 260 (October 2023), p. 21. This is consistent with the evidence presented. Therefore, the Department acted in accordance with Department policy in calculating Petitioner's monthly FAP benefit for April 2024 ongoing.

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 determined Petitioner's monthly FAP benefits of \$23 effective April 2024.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

CML/nr



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
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Interested Parties
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Via-First Class Mail :

Petitioner

[REDACTED]
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