



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

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Date Mailed: July 1, 2024
MOAHR Docket No.: 24-005897
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 June 26, 2024. Petitioner was not present and was represented by ██████████, Petitioner's son and Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Jennifer Bellini, Assistance Payment Worker, and Ahmed Elahrag, Assistance Payment Supervisor.

ISSUE

Did the Department properly determine Petitioner's eligibility for 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. Petitioner was an ongoing recipient of monthly FAP benefits of \$422.00 for a two-person group consisting of herself and her son ██████████ (Son). Exhibit A, pp. 41-43.
2. Petitioner is ██████ years old and receives Supplemental Security Income (SSI) payments of ██████████ per month and State SSI Payment (SSP) of ██████████ per month.
3. Son is ██████ years old, a part-time college student and not working.
4. On February 18, 2024 Petitioner completed a FAP redetermination. Petitioner listed herself and Son as the only household members.

5. On April 2, 2024, the Department completed Petitioner's FAP interview with AHR. Exhibit A, pp. 44-50.
6. For April 2024, the Department determined Petitioner was eligible for FAP benefits of \$190.00 per month for a group size of one. Exhibit A, pp. 35-37.
7. AHR had his own FAP benefit case. Exhibit A, p. 26. AHR is [REDACTED] years old and receives Supplemental Security Income (SSI) payments of [REDACTED] per month and State SSI Payment (SSP) of [REDACTED] per month.
8. Effective May 1, 2024, the Department added AHR to Petitioner's FAP case and redetermined Petitioner's FAP benefits for a group size of two and, based on Petitioner and AHR's combined income, determined Petitioner was eligible for FAP benefits of \$23.00 per month effective May 1, 2024. Exhibit A, p. 27.
9. Due to a computer system error, the Department did not send Petitioner a Notice of Case Action when it reduced Petitioner's benefit amount to \$23.00 per month.
10. On May 13, 2024, Petitioner reported to the Department that her monthly rent increased to \$370.00 per month. Exhibit A, pp. 14-15.
11. On May 14, 2024, the Department sent a Benefit Notice to Petitioner informing her that she was approved for FAP benefits of \$77.00 per month for a household size of three for June 1, 2024 ongoing. Exhibit A, pp. 9-12.
12. On May 22, 2024, the Department received Petitioner's request for a hearing disputing the monthly FAP benefit amount for May 2024 ongoing. Exhibit A, pp. 3-7.

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, AHR disputed the reduction of FAP benefits to \$23.00 for May 2024 and the subsequent increase of FAP benefits to \$77.00 for June 1, 2024 ongoing. The Department testified the reduction occurred because of changes to the FAP group composition and the increase was related to a change to Petitioner's housing expense.

The Department has to determine the FAP group composition prior to evaluating the non-financial and financial eligibility of everyone in the group. FAP group composition is established by determining all of the following: who lives together; the relationship(s) of the people who live together; whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. People who live together and purchase and prepare food together are part of the same FAP group. See BEM 212 (March 2024), p. 6. Parents and their children under 22 years of age who live together must also be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Children include natural, step and adopted children. BEM 212 (March 2024), p.1. Students aged 18-59 in college or vocational school are ineligible FAP group members unless they meet certain criteria. BEM 212, p.10; BEM 245 (July 2023) p. 2.

Here, based on the FAP interview, the Department determined Son was an ineligible student and excluded him from the FAP group. A person who is in student status and does not meet the criteria in BEM 245, such as working at least 20 hours per week, is not included as a member of the FAP group. BEM 212, p. 10; BEM 245 (July 2023), p. 3-6. Son was enrolled in college but not working or in work study. AHR did not dispute Son's status as an ineligible student. Therefore, he was properly excluded from Petitioner's FAP group. The Department further testified that based on the FAP interview, AHR lived with Petitioner and they purchased and prepared food together. AHR acknowledged that he lived with Petitioner and did not dispute he and Petitioner purchase and prepare food together. Because they live together and purchase and prepare food together, Petitioner and AHR are part of the same FAP group. See BEM 212 (March 2024), p. 6. Therefore, starting May 2024, Petitioner's FAP group had two members, Petitioner and AHR, and Son was excluded as an ineligible student.

To determine whether the Department properly calculated Petitioner's FAP benefit rate, the evaluation first starts with consideration of all countable earned and unearned income available to the group. BEM 500 (April 2022), pp. 1-5. The income of both Petitioner and AHR must be considered because they are both in Petitioner's FAP group. 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. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 4-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. The standardized income is determined by averaging the income received and multiplying it by 4.3 for amounts received weekly; by 2.15 for amounts received every two weeks; and adding amounts received twice a month. *Id.*

Because Petitioner and AHR receive SSI (████████ total for both) and SSP (████████ total for both) there is no need to further standardize their income as the income is already received on a monthly basis for a total of ██████████. At the hearing, AHR confirmed the

SSI and SSP monthly amounts. The Department properly considered Petitioner and AHR's unearned income for a total monthly unearned income of [REDACTED].

After consideration of income, the Department considers all appropriate deductions and expenses. Based on Petitioner and AHR's receipt of SSI, both are a senior/disabled/disabled veteran (SDV) member of the FAP group. BEM 550 (February 2024), pp. 1-2; 6. For SDV groups with only unearned income, the group is eligible for the following deductions to income:

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

Id.; BEM 554 (February 2024), p. 1; BEM 556 (May 2024), p.1.

The Department properly budgeted the standard deduction of \$198.00 based on Petitioner's FAP group size of two. RFT 255 (October 2023), p. 1. AHR testified there were no monthly medical expenses. The Department properly did not budget a deduction for medical expenses. BEM 554 (February 2024), p. 9. Petitioner and AHR do not have either dependent care expenses or court ordered child support paid to non-household members and therefore the Department properly did not budget deductions for these items. Petitioner's Adjusted Gross Income (AGI), calculated by subtracting the foregoing applicable deductions from the gross income of [REDACTED], is [REDACTED].

Once the AGI is calculated, the Department must then consider the excess shelter deduction. BEM 554, p. 1; 7 CFR 273.9(d)(6). The excess shelter deduction is calculated by adding Petitioner's housing costs to any of the applicable utility standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 5-8; 7 CFR 273.9(d)(6)(ii).

For the month of May 2024, Petitioner's reported housing expenses were \$123.00. The Department provided Petitioner the \$680.00 heat and utility (H/U) standard deduction, which is the most favorable utility standard available to FAP recipients. RFT 255, p. 1. Petitioner's total shelter expense is \$803.00, the sum of her housing expenses (\$123.00) and H/U deduction (\$680.00). This amount, reduced by [REDACTED] (which is 50% of Petitioner's [REDACTED] AGI), results in an excess shelter deduction of \$0.00. BEM 556, pp. 5-6.

To determine Petitioner's net income for May 2024, Petitioner's excess shelter deduction of \$0.00 is subtracted from her [REDACTED] AGI to equal her net income of [REDACTED]. Petitioner's net income is compared against the Food Assistance Issuance Tables found in RFT 260 for a monthly FAP benefit rate of \$23.00 for a group size of two. BEM 556, p. 6; RFT 260 (October 2023), p. 24. Therefore, the Department properly calculated Petitioner's FAP benefit rate of \$23.00 for May 2024.

Petitioner reported her housing expenses increased to \$370.00 per month on May 13, 2024. Changes which result in an increase in the household's benefits must be effective no later than the first FAP allotment issued 10 days after the date the change was

reported, provided any necessary verification was returned by the due date. BAM 220 (November 2023), p.7. Thus, the increased rent was properly considered for Petitioner's FAP budget beginning June 2024. For the month of June 2024, the Department timely updated the FAP budget with the housing expense of \$370.00 per month and provided Petitioner the \$680.00 heat and utility (H/U) standard deduction, which is the most favorable utility standard available to FAP recipients. RFT 255, p. 1. Petitioner's total shelter expense is \$1,050.00, the sum of her housing expenses (\$370.00) and H/U deduction (\$680.00). This amount, reduced by [REDACTED] (which is 50% of Petitioner's [REDACTED] AGI), results in an excess shelter deduction of \$192.00. BEM 556, pp. 5-6.

To determine Petitioner's net income for June 2024, Petitioner's excess shelter deduction of \$192.00 is subtracted from her [REDACTED] AGI to equal her net income of [REDACTED]. Petitioner's net income is compared against the Food Assistance Issuance Tables found in RFT 260 for a monthly FAP benefit rate of \$77.00 for a group size of two. BEM 556, p. 6; RFT 260 (October 2023), p. 21. While the Department's Benefit Notice provided that Petitioner's FAP benefit of \$77.00 was based on a household size of three, the Department clarified at the hearing that the benefit was for a group size of two which included Petitioner and AHR. Exhibit A, pp. 20-22. Therefore, the Department properly calculated Petitioner's FAP benefit rate of \$77.00 for June 1, 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 the Department acted in accordance with Department policy when it determined Petitioner's eligibility for FAP benefits for May 2024 and June 2024 ongoing.

DECISION AND ORDER

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

JN/cc



Julia Norton
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 :

Interested Parties

MDHHS-Washtenaw-Hearings
BSC4-HearingDecisions
N. Denson-Sogbaka
B. Cabanaw
M. Holden
MOAHR

Via-First Class Mail :

Authorized Hearing Rep.

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Petitioner

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