



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: July 11, 2024
MOAHR Docket No.: 24-006112
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 July 1, 2024. Petitioner was not present and was represented by ██████████, Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Priya Johnson, 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 is ██████ years old and an ongoing recipient of FAP benefits.
2. Petitioner receives Supplemental Security Income (SSI) of \$████████ per month and State SSI Payment (SSP) of \$████████ per month.
3. On ██████████ 2024, the Department received information from Petitioner’s assisted living facility that Petitioner’s monthly rent had changed from \$████████ per month to \$████████ per month.
4. On January 12, 2024, the Department sent Petitioner a Notice of Case Action informing her that her monthly FAP benefit would decrease to \$71.00 per month, effective February 1, 2024 ongoing. Exhibit A, pp. 16-20.

5. On May 22, 2024, the Department received Petitioner's request for hearing disputing her monthly FAP benefit amount. 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.

In this case, Petitioner disputes the Department's determination of her monthly FAP benefit amount. Petitioner's hearing request is timely because it concerns the current level of FAP benefits which may be disputed at any time during the certification period. 7 CFR 273.15(g); BAM 600 (June 2024), p. 5.

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 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 receives SSI and SSP, there is no need to further standardize her income as her income is already received on a monthly basis of \$957.00. Although AHR testified she was not sure what SSP income was or when Petitioner received it, she did not dispute the Department's income amounts. Department properly considered Petitioner's unearned income.

After consideration of income, the Department considers all appropriate deductions and expenses. Based on her age, Petitioner is a senior/disabled/disabled veteran (SDV) member of her FAP group. BEM 550 (February 2024), pp. 1-2. 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 single-person FAP group size. RFT 255 (October 2023). Petitioner is an SDV group member, but no evidence was presented that any verified medical expenses had been submitted to the Department. AHR testified that Petitioner incurs monthly medical expenses for medical equipment. However, AHR acknowledged she had not provided this information to the Department. Because there was no evidence presented that Petitioner had provided documentation to the Department, the Department properly did not include a medical expense deduction. AHR was informed that if she reports these expenses to the Department, it may affect future FAP benefits. Petitioner does not have dependent care expenses or court ordered child support paid to non-household members and therefore the budget properly showed no deductions for these items. Petitioner's Adjusted Gross Income (AGI), calculated by subtracting the foregoing applicable deductions from the gross income of \$957.00 is \$759.00.

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).

Petitioner's assisted living facility reported a rent change to the Department on January 12, 2024. In FAP cases, for non-income changes, the Department completes the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. If the reported change will decrease the benefits or make the household ineligible, action must be taken, and a notice issued to the client within 10 days of the reported change. BAM 220 (November 2023), p. 8. Actions that decrease benefits are negative actions and the Department must allow for timely notice of the change. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the Department's action. BAM 220, pp.1, 4-5, 13. In this case, the Department acted on the change the same day it was reported and issued a NOCA to Petitioner. Further, the effective date of the change was more than 12 days following the Department's action. The Department properly applied the rent decrease effective February 1, 2024.

Petitioner is responsible for rent of \$[REDACTED] per month and her non-heat electric and phone utilities. The Department testified it allowed \$157.00 non-heat electric standard deduction and \$31.00 telephone standard deduction. BEM 554, pp. 22-24. Petitioner's total housing expense is \$[REDACTED], the sum of her rent and non-heat electric and telephone standard deductions. This reduced by 50% of Petitioner's AGI (\$379.50) results in an excess shelter deduction of \$28.00. BEM 556, pp. 5-6. Because Petitioner is an SDV

member of her FAP group, she is allowed the full amount of this deduction. RFT 255 (October 2023), p. 1; BEM 556, p. 6.

To determine Petitioner's net income, Petitioner's excess shelter deduction of \$28.00 is subtracted from her \$759.00 AGI to equal her net income of \$731.00. Petitioner's net income is compared against the Food Assistance Issuance Tables found in RFT 260 for a monthly FAP benefit rate of \$71.00. BEM 556, p. 6; RFT 260 (October 2023), p. 11. Therefore, the Department properly calculated Petitioner's FAP benefit rate.

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 FAP benefits.

DECISION AND ORDER

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



Julia Norton
Administrative Law Judge

JN/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

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

M Holden

B Cabanaw

N Denson-Sogbaka

MOAHR

Via-First Class Mail:

Authorized Hearing Rep.

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]

Petitioner

[REDACTED]

[REDACTED]

[REDACTED] MI [REDACTED]