



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]  
[REDACTED], MI [REDACTED]

Date Mailed: July 19, 2024  
MOAHR Docket No.: 24-006611  
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 July 11, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Joseph Meredith, Assistance Payments Worker, and Megan Vinson, Assistance Payments Worker.

### **ISSUE**

Did the Department properly determine Petitioner's Food Assistance Program (FAP) benefits for the month of May 2024 and June 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. Petitioner is an ongoing recipient of FAP for a certified group of five, comprised of herself and her four children, including [REDACTED] (CJ).
2. On May 30, 2024, the Department sent Petitioner a Notice of Case Action (NOCA) closing her FAP case for May 2024 due to excess net income and approving her for \$34 per month for June 1, 2024 ongoing. The Department used \$[REDACTED] in earned income, and \$778 in unearned income, attributable to Supplemental Security Income (SSI) received for CJ, to determine Petitioner's June 2024 FAP benefits. (Exhibit B, pp. 1 – 8).

3. On June 5, 2024, the Department received a request for hearing from Petitioner disputing the Department's determination of her May 2024 FAP benefits. (Exhibit A, pp. 3 – 7).
4. On June 10, 2024, the Department confirmed that SSI income for CJ was \$792 in 2024 but ceased as of May 31, 2024. (Exhibit A, p. 9).
5. On June 10, 2024, the Department sent Petitioner a NOCA, stating her FAP benefits were decreased to \$28 for the month of May 2024. The budget on the NOCA showed \$4,908 in earned income for Petitioner and unearned income of \$792 for CJ's SSI. (Exhibit A, pp. 11 – 18).
6. On June 13, 2024, the Department obtained a Work Number report through Equifax to verify Petitioner's weekly earnings through Employer (Exhibit A, pp. 19 – 21) and sent Petitioner a NOCA increasing her FAP benefits to \$373 per month effective July 1, 2024 ongoing based on gross monthly earned income of \$ [REDACTED] from Employer and unearned income of \$0 (Exhibit A, pp. 33 – 34).

### **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).

#### **FAP**

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 because she did not receive any FAP benefits for May 2024. As of the date of the hearing, the Department had approved Petitioner for FAP benefits as follows:

May 2024	\$28	(Exhibit A, p. 11)
June 2024	\$34	(Exhibit B, p. 1)
July 2024 ongoing	\$373	(Exhibit A, p. 33)

At the hearing, Petitioner testified that she disputed the amount of FAP benefits for May and June 2024 but did not dispute the amount of her FAP benefits for July 1, 2024 ongoing.

To determine whether the Department properly calculated Petitioner's FAP benefit amount, all countable earned and unearned income available to the Petitioner must be

included. 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. BEM 505 (October 2023), p. 1. Wages from employment are earned income and SSI income is unearned income. BEM 501 (January 2024), pp. 6 – 7; BEM 503 (April 2024), p. 35.

When reprocessing benefit determinations for prior months, the Department is to budget a client's actual income when available. BEM 505, pp. 1, 3. When actual income is not available, the Department is to budget based on prospective income. Prospective income is income not yet received, but expected, and is based on the past 30 days when that income appears to accurately reflect what is expected to be received in the benefit month. BEM 505, pp. 1, 6. Prospected income is to be the best estimate of income expected to be received during the month. BEM 505, pp. 3 – 4. When prospecting income for the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount and the average of weekly amounts is multiplied by 4.3. BEM 505, pp. 8 – 9.

### **May 2024**

In this case, Petitioner disputed the amount of her FAP benefits for May 2024 that were approved on June 10, 2024. The Department testified that when it completed the May 2024 budgets on June 10, 2024 and again on June 13, 2024, it converted Petitioner's actual earned income into standard monthly amounts of \$ [REDACTED] (Exhibit A, p. 40) and \$ [REDACTED] (Exhibit A, p. 44) instead of using Petitioner's actual income. The Department also testified that the SSI income ceased as of May 31, 2024 and that when the Department recalculated Petitioner's May budget, it did not include the SSI income. (Exhibit A, pp. 9, 44).

The evidence established that in May Petitioner had actual earned income from employment of \$ [REDACTED] (dropping cents) and unearned income from SSI and State SSI Payment (SSP) attributable to CJ of \$792. (Exhibit A, pp. 9, 20 – 21). Because the earned income amount budgeted by the Department was less than Petitioner's actual earned income, the Department's calculations were more favorable to Petitioner and the Department will not be reversed on that basis. Additionally, because Petitioner did receive the SSI in May, it was properly included on the NOCA issued June 10, 2024. In sum, the NOCA issued to Petitioner on June 10, 2024 was more favorable than if her actual income had been budgeted in accordance with BEM 505 and therefore, the Department's decision with regard to Petitioner's May 2024 FAP benefit is affirmed.

### **June 2024**

Petitioner also disputed the amount of her FAP benefits for June 2024 as approved on the NOCA dated May 30, 2024. (Exhibit B, pp. 1 – 2). The NOCA showed \$ [REDACTED] in earned income and \$778 in unearned income and \$3,735 in net income after all applicable deductions were taken.

In support of the budget summary in the NOCA, the Department explained that it obtained a current Work Number report through Equifax on June 13, 2024 and utilized

Petitioner's earnings for the month of May 2024 to determine her earned income, specifically:

May 1, 2024  
May 3, 2024  
May 10, 2024  
May 17, 2024  
May 24, 2024  
May 31, 2024

\$ [REDACTED]

(Exhibit A, p. 21).

The Department testified that it then converted Petitioner's weekly income into a standard monthly amount of \$ [REDACTED] (Exhibit A, p. 9; BEM 505, pp. 8 – 9). However, the May 30, 2024 NOCA was issued prior to the Work Number report presented at the hearing and the Department was unable to explain how it calculated Petitioner's earned income. Because the Department could not explain how it calculated Petitioner's earned income for the purpose of determining her FAP benefits for June 2024, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's FAP benefits for June 2024 on the May 30, 2024 NOCA.

It is noted that at the hearing, the Department also introduced a revised budget that showed \$4,938 in gross monthly earned income and \$0 unearned income. (Exhibit A, p. 42). As explained previously, the revised budget offered at the hearing was not consistent with the Department's testimony regarding what pay information it used from the Work Number. Additionally, the revised budget did not include a 20% earned income deduction which Petitioner was entitled to. BEM 550 (February 2024), p. 1.

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 satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's gross earned income for the June 2024 benefit month.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED** as to the May 2024 benefit month and **REVERSED** as to the June 2024 benefit month.

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 FAP eligibility for June 2024;

2. If Petitioner is eligible for any supplemental FAP benefits, issue supplemental payments to Petitioner for any FAP benefits she was eligible to receive but did not, for June 2024; and
3. Notify Petitioner of its decision in writing.



CML/nr

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**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**

Chelsea McCune  
Macomb County DHHS Warren Dist.  
13041 E 10 Mile  
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**MDHHS-Macomb-20-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M. Holden  
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B. Cabanaw  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI [REDACTED]