



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 21, 2022
MOAHR Docket No.: 22-003697
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 19, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Alaina Darget, Eligibility Specialist and Lead Worker.

ISSUE

Did the Department properly process the Michigan Office of Administrative Hearings and Rules (MOAHR) decision in docket number 22-001532 and calculate Petitioner's Food Assistance Program (FAP) benefit rate?

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 and her son live in the same house and purchase and prepare food together.
2. Petitioner receives \$ [REDACTED] per month in Supplemental Security Income (SSI) benefits.
3. Petitioner's son receives \$ [REDACTED] per month in SSI benefits.
4. Both Petitioner and her son receive the \$14.00 per month State Supplemental Security Income Payment (SSP) benefit.
5. There are no other sources of income in the household.

6. Petitioner has a \$650.00 rental expense and is responsible for her heat and electric.
7. On May 9, 2022, a decision was issued in MOAHR docket number 22-001532 holding that Petitioner's son must be included in her FAP group, that withholdings from Petitioner's son's SSI payment for overissuances must be deducted from his income, and that the FAP budget must be recalculated from February 2022, ongoing, with supplements issued for any months in which Petitioner did not receive the full benefit rate.
8. On June 29, 2022, the Department issued a Notice of Case Action to Petitioner informing her that her FAP benefit rate was \$219.00 for a group size of two based upon \$ [REDACTED] in unearned income, the standard deduction of \$177.00, housing costs of \$650.00, and the heat and utility standard deduction (H/U) of \$559.00.
9. A review of the Benefit Summary Inquiry shows that Petitioner was issued a total of \$459.00 per month in regular benefit issuances and supplements for each month between February 2022 and August 2022.
10. On August 18, 2022, Petitioner requested a hearing disputing the Department's implementation of the decision in MOAHR docket number 22-001532.

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 implementation of the hearing decision from MOAHR docket number 22-001532 indicating that her son had not been included in her group, that she had not been issued supplements, and that the newly calculated benefit rate was incorrect. A review of the Notice of Case Action shows that the Department included Petitioner's son as a group member. Further review of the Benefit Summary Inquiry shows that Petitioner's group was issued a total of \$459.00 in FAP regular and supplemental issuances per month between February 2022 and August 2022, the full FAP benefit rate for a group size of two. Therefore, the Department properly implemented MOAHR docket number 22-001532 by including Petitioner's son in the

group and issuing supplements to Petitioner for benefits not previously received for a group size of two.

Next, Petitioner disputes the recalculated FAP benefit rate which will take effect once the FAP Emergency Allotments (EA) end. All countable, gross earned and unearned income available to the group must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1–5. The Department determines a client's eligibility for program benefits based on the group's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (November 2021), 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. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 8-9. Petitioner's and her son's income is received monthly; therefore, there is no need to further standardize the income. Petitioner receives \$[REDACTED] per month in SSI benefits and \$14.00 per month in SSP benefits. Petitioner's son receives \$[REDACTED] per month in SSI benefits after withholdings for overissuances and \$14.00 per month in SSP benefits. Therefore, their combined income is \$[REDACTED] per month.

Petitioner's group includes a Senior, Disabled, or disabled Veteran (SDV) group member; therefore, the group is eligible for the following deductions to income:

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

BEM 550 (January 2022), p. 1; BEM 554 (January 2022), p. 1; BEM 556 (October 2021), pp. 3-6.

As discussed above, Petitioner has a standardized gross income of \$[REDACTED]. No evidence was presented that Petitioner has a child support, medical expense, or dependent care expense and the Department properly budgeted \$0.00 for these items. In addition, Petitioner has a group size of two, so she is eligible for the standard deduction of \$177.00 and that was properly budgeted. RFT 255 (October 2021), p. 1; BEM 556, p. 4.

After consideration of each of these deductions, Petitioner's Adjusted Gross Income (AGI) would be calculated by subtracting each of these expenses from her gross income. Therefore, Petitioner's AGI 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 standard deductions and reducing this expense by half of Petitioner's AGI. BEM 556, pp. 4-7; 7 CFR 273.9(d)(6)(ii). Housing expenses include rent, mortgage, second mortgage, home equity loans, condo and maintenance fees, lot rent, other payments leading to the ownership of the home, property taxes, state and local assessments, and insurance on the structure of the home. BEM 554, p. 13-14. Utilities are addressed by the heat and utility standard deduction (H/U) which covers all heat and utility costs including cooling. BEM 554, p. 15. FAP groups that receive the H/U do not receive any other individual utility standard deductions including water, sewer, gas, trash, telephone, or non-heat electric. BEM 554, p. 15. Petitioner has a current rental expense of \$650.00 per month. She is also responsible for all utility costs; therefore, the Department properly afforded Petitioner the heat and utility standard deduction (H/U). Effective October 1, 2021, the H/U was \$559.00. RFT 255, p. 1. The expenses outlined here are the only expenses considered for purposes of calculating the FAP budget and eligibility determination. Petitioner's total housing cost is \$1,209.00 which is reduced by 50% of Petitioner's AGI (\$██████) resulting in an excess shelter cost of \$540.00. *Id.*

Next, Petitioner's excess shelter cost is deducted from her AGI to equal her net income, \$██████. Next, Petitioner's Net Income is compared against the Food Assistance Issuance Tables in RFT 260 to determine her benefit rate of \$219.00 per month. RFT 260 (October 2021), p. 15.

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 processed and implemented the hearing decision in MOAHR docket number 22-001532.

DECISION AND ORDER

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

AMTM/cc



Amanda M. T. Marler
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-Wayne-57-Hearings
BSC4-HearingDecisions
D. Sweeney
M. Holden
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]